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DIVORCE PRACTICE.

DIVORCE PRACTICE,

CONTAINING

THE PROCEDURE IN

Divorce and Matrimonial Causes and Matters

IN THE

High Court of Justice, Court of Appeal,

AND

THE HOUSE OF LORDS.

BY

T. W. H. OAKLEY, F.R.G.S.,

Chief Clerk of the Divorce Registry

(PROBATE, DIVORCE, AND ADMIRALTY DIVISION),

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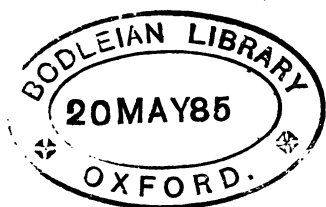
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1885.

PRICE 20/-



TO

CHARLES JOHN MIDDLETON, ESQUIRE,

**SENIOR REGISTRAR OF THE PRINCIPAL REGISTRY OF THE PROBATE, DIVORCE,
AND ADMIRALTY DIVISION OF THE HIGH COURT OF JUSTICE,**

This Work

IS WITH KIND PERMISSION

RESPECTFULLY DEDICATED

BY

THE AUTHOR.

LONDON:

W. P. GRIFFITH & SONS, LIMITED, PRINTERS,

PRUJEAN SQUARE, OLD BAILEY, E.C.

PREFACE.

THIS work is not intended as a treatise on the Law of Divorce but as a concise and practical exposition of the ordinary course of procedure in conducting causes in the Registry. The author might almost apologise for some of the hints upon minor matters herein contained had not experience proved that in many and even complicated cases, otherwise correct, simple but necessary facts have been omitted, thus causing delay and expense, which it is the object of this guide to avoid.

DIVORCE REGISTRY, SOMERSET HOUSE,

April, 1885.

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CONSTITUTION OF THE COURT.

The Statutes Governing the Jurisdiction of the Division of the High Court of Justice for Divorce and Matrimonial Causes are

Matrimonial Causes Act, 20 & 21 Vict., c. 85, 28 Aug., 1857.

Legitimacy Declaration Act, 21 & 22 Vict., c. 93.

Matrimonial Causes Amendment Act, 21 & 22 Vict., c. 108, 2 Aug., 1858.

Matrimonial Causes Amendment Act (*Husband and Wife competent to give evidence*), 22 & 23 Vict., c. 61, 13 Aug., 1859.

Matrimonial Causes Amendment Act (*Decree Nisi not Absolute till after three months*), 23 & 24 Vict., c. 144, 28 Aug. 1860.

Matrimonial Causes Perpetuating Act, 25 & 26 Vict., c. 81, 7 Aug. 1862.

Matrimonial Causes Amendment Act (*as to discharging Orders for Protection*), 27 & 28 Vict., c. 44, July, 1864.

Matrimonial Causes Amendment Act (*Decree Nisi not absolute till after six months*), 29 Vict., c. 32, June, 1866.

Matrimonial Causes Amendment Act (*as to Appeals*), 31 & 32 Vict., c. 77, 31 July, 1868.

Matrimonial Causes Amendment (Evidence) Act (*Parties, their Husbands and Wives may be Witnesses in Suits for Adultery*), 32 & 33 Vict., c. 68, 9 Aug., 1869.

Matrimonial Causes Amendment Act (*Extending Intervention of Queen's Proctor to Nullity Suits*), 36 Vict., c. 31, 16 June, 1873.

Matrimonial Causes Amendment Act (*Costs of Intervention; Magistrates may make Orders equivalent to a Judicial Separation on ground of Cruelty where Husband convicted of Aggravated Assault*), 41 Vict., c. 19, 27 May, 1878.

Matrimonial Causes Amendment Act (*as to Restitution Suits*), 47 & 48 Vict., c. 68, Aug., 1884.

Greek Marriages Act, 47 & 48 Vict., c. 20, 1884.

The various Petitions for

1. Dissolution of Marriage
2. Judicial Separation
3. Nullity of Marriage
4. Restitution of Conjugal Rights
5. Jactitation of Marriage
6. Declaration of Legitimacy—and
7. To establish validity of certain Greek Marriages,—

are based on the following Sections of 20 & 21 Vict., c. 85:—

VI. *Jurisdiction*.—As soon as this act shall come into operation, all jurisdiction now vested in or exerciseable by any ecclesiastical court or person in *England* in respect of divorces *a mensa et toro*, suits of nullity of marriage, suits for restitution of conjugal rights, or jactitation of marriage, and in all causes, suits, and matters matrimonial, except in respect of marriage licences, shall belong to and be vested in Her Majesty, and such jurisdiction, together with the jurisdiction conferred by this Act, shall be exercised in the name of Her Majesty in a court of record to be called “The Court for Divorce and Matrimonial Causes.” *

XVI. *Judicial Separation*.—A sentence of judicial separation may be obtained, either by the husband or the wife, on the ground of adultery, or cruelty, or desertion without cause for two years and upwards.

* Altered to present Title by Supreme Court of Judicature, Act, 1873.

XXVII. *Dissolution of Marriage.*—It shall be lawful for any husband to present a petition to the said Court, praying that his marriage may be dissolved, on the ground that his wife has since the celebration thereof been guilty of adultery; and it shall be lawful for any wife to present a petition to the said Court, praying that her marriage may be dissolved, on the ground that since the celebration thereof her husband has been guilty of incestuous adultery, or of bigamy with adultery, or of rape, or of sodomy or bestiality, or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensa et toro*, or of adultery coupled with desertion, without reasonable excuse, for two years or upwards; and every such petition shall state as distinctly as the nature of the case permits the facts on which the claim to have such marriage dissolved is founded: Provided that for the purposes of this act incestuous adultery shall be taken to mean adultery committed by a husband with a woman with whom if his wife were dead he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity or affinity; and bigamy shall be taken to mean marriage of any person, being married, to any other person during the life of the former husband or wife, whether the second marriage shall have taken place within the dominions of Her Majesty or elsewhere.

And 21 & 22 Vict., c. 93, sec. 1, *Declaration of Legitimacy Act*.

Any natural born subject of the Queen or any person whose right to be deemed a natural born subject depends wholly or in part on his legitimacy, or on the validity of a marriage being domiciled in England, or Ireland, or claiming any real or personal estate situate in England, may apply by petition to the Court for Divorce and Matrimonial Causes, praying the court for a decree declaring that the Petitioner is the legitimate child of his parents, and that the marriage

of his father and mother, or of his grandfather and grandmother, was a valid marriage, or for decree declaring either of the matters aforesaid; and any such subject or person, being so domiciled or claiming as aforesaid, may in like manner apply to such court for a decree declaring that his marriage was or is a valid marriage, and such court shall have jurisdiction to hear and determine such application and to make such decree declaratory of the legitimacy or illegitimacy of such person, or of the validity or invalidity of such marriage, as to the court may seem just; and such decree except as hereinafter mentioned shall be binding to all intents and purposes on Her Majesty and on all persons whomsoever.

And 47 & 48 Vict., c. 20, *Greek Marriages Act*.

An Act to remove Doubts as to the Validity of certain Marriages of Members of the Greek Church in England, 3 July, 1884

Whereas it is alleged that certain marriages have been from time to time, between the years 1836 and 1857, solemnized between members of the Greek Church in the Greek Chapel then situate at 9, Finsbury Circus, in the City of London, and afterwards, within the said period, at London Wall, in the said City :

And that similar marriages have been from time to time, within the said period, solemnized at the residences of members of the said Church :

And that such marriages were respectively solemnized in conformity with the rights and ceremonies of the Greek Church by a priest of that Church, and entries of the said respective marriages so solemnized have from time to time been made in the register book kept for that purpose at the said chapels respectively, or otherwise, in the custody of the said priest :

And that the said marriages were respectively solemnized in the belief that the aforesaid conformity to and compliance with the rites and ceremonies of the Greek Church constituted a compliance with the law of England :

And whereas objections may be made to the validity of such marriages, by reason of the same not having been solemnized in any consecrated or licensed church or chapel of the Church of England, or in any registered building, or at the office of the Registrar, and not having been solemnized after due publication of banns, or under licence or special licence, or in the presence of a Clerk in Holy Orders of the Church of England, or a Registrar of marriages, and it is expedient to confirm, in the manner and subject to the proviso hereinafter mentioned, any marriage which may have been contracted in the manner and under the circumstances aforesaid, notwithstanding all or any of the aforesaid defects :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. Any party to any such marriage as aforesaid, and any child or grandchild of any such party, and any person interested in the validity of any such marriage, may respectively apply to the Probate and Matrimonial Division of Her Majesty's High Court of Justice by petition, praying the Court for a decree declaring that such marriage was a valid marriage ; and the said Court shall have jurisdiction to hear and determine such application, and shall, if an entry of such marriage shall appear to have been duly made upon the register book aforesaid, and if the Court be satisfied that such marriage was solemnized in the manner and in the belief aforesaid, and was in all other respects

good and lawful, declare the same to have been a valid marriage, notwithstanding all or any of the defects aforesaid: Provided always, that this Act shall not extend to render valid any marriage which before the passing thereof has been declared invalid by any court of competent jurisdiction in any proceeding touching such marriage, or any right dependent on the validity or invalidity thereof, or any marriage where either of the parties thereto has afterwards during the life of the other intermarried with any other person.

* Any petition under this Act shall be accompanied by such affidavit verifying the same as the said Court may from time to time direct.

† In respect of all matters and things by this Act not specially provided for, the provisions of sections five, six, and seven of the Act 21 & 22 Vict., c. 93, shall *mutatis mutandis* apply, and all proceedings under this Act shall be had and taken in conformity therewith, and with such of the rules for the time being in force with reference to applications to the Court under the said Act as may be applicable, or with such rules as the judges of the said Court for the time being authorised to make rules may from time to time prescribe.

2. Provided always, and be it further enacted, that the status of any person or any right of any person to any real or personal property or any estate or interest of any such person in any real or personal property which may be

* *As directed by the President.*—Such affidavit shall be in the form and to the effect required by Rule 2 of the Divorce Rules and Orders.

Rule 2. Every petition shall be accompanied by an affidavit made by the Petitioner, verifying the facts of which he or she has personal cognizance, and deposing as to belief in the truth of the other facts alleged in the petition, and such affidavit shall be filed with the petition.

† 21 & 22 Vict., c. 93, sec. 5—Power to award and enforce costs.

“ “ 6—Attorney-General to have a copy of petition one month before it is filed and to be a Respondent.

“ “ 7—Court may require persons to be cited.

dependent on the invalidity of any such marriage shall not be altered, taken away, or injuriously affected by any decree made under the provisions of this Act; but shall be and remain as valid and effectual in law to all intents and purposes as if this Act had not been passed.

3. The priest of the Greek Church, or other the person in whose custody the register books relating to such marriages as aforesaid shall be kept, on the passing of this Act, shall forthwith transmit to the Registrar of the Probate and Matrimonial Registry a copy signed by him of the register aforesaid, and the said Registrar shall receive and preserve the same in the said Registry.

4. This Act may be cited as the Greek Marriages Act, 1884.

And 47 & 48 Vict., c. 68, *Restitution of Conjugal Rights*.

[14th August, 1884.]

Whereas it is expedient to amend the law as to the restitution of conjugal rights in England:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Matrimonial Causes Act, 1884.

2. From and after the passing of this Act a decree for restitution of conjugal rights shall not be enforced by attachment, but where the application is by the wife the Court may, at the time of making such decree, or at any time afterwards, order that in the event of such decree not being complied with within any time in that behalf limited by the Court, the respondent shall make to the petitioner such periodical payments as may be just, and such order may be enforced in the same manner as an order for alimony in a suit for judicial separation. The Court may, if it shall

think fit, order that the husband shall, to the satisfaction of the Court, secure to the wife such periodical payment, and for that purpose may refer it to any one of the Conveyancing Counsel of the Court to settle and approve of a proper deed or instrument to be executed by all necessary parties.

3. Where the application for restitution of conjugal rights is by the husband, if it shall be made to appear to the Court that the wife is entitled to any property, either in possession or reversion, or is in receipt of any profits of trade or earnings, the Court may, if it shall think fit, order a settlement to be made to the satisfaction of the Court of such property, or any part thereof, for the benefit of the petitioner and of the children of the marriage, or either or any of them, or may order such part as the Court may think reasonable of such profits of trade or earnings to be periodically paid by the respondent to the petitioner for his own benefit, or to the petitioner or any other person for the benefit of the children of the marriage, or either or any of them.

4. The Court may from time to time vary or modify any order for the periodical payment of money, either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same order wholly or in part, as the Court may think just.

5. If the respondent shall fail to comply with a decree of the Court for restitution of conjugal rights such respondent shall *thereupon be deemed to have been guilty of desertion without reasonable cause, and a suit for judicial separation may be forthwith instituted, and a sentence of judicial separation may be pronounced although the period of two years may not have elapsed since the failure to comply with the decree for*

restitution of conjugal rights ; and when any husband who has been guilty of desertion by failure on his part to comply with a decree for *restitution of conjugal rights* has also been *guilty of adultery*, the wife may forthwith present a petition for dissolution of her marriage, and the *Court may pronounce a decree nisi for the dissolution of the marriage on the grounds of adultery coupled with desertion*. Such decree nisi shall not be made absolute until after the expiration of six calendar months from the pronouncing thereof, unless the court shall fix a shorter time.

6. The Court may, at any time before final decree on any application for restitution of conjugal rights, or after final decree if the respondent shall fail to comply therewith, upon application for that purpose, make from time to time all such orders and provisions with respect to the custody, maintenance, and education of the children of the petitioner and respondent as might have been made by interim orders during the pendency of a trial for judicial separation between the same parties.

7. This Act shall not extend to Scotland or Ireland.

From these it will be seen that a *Husband can obtain a Divorce* upon proof of adultery of the Wife, or *Judicial Separation on the ground of* adultery, or cruelty, or desertion without cause for two years and upwards.

A *Wife can obtain a Divorce on the ground of her Husband having been guilty of*

Incestuous adultery

Bigamy with adultery

Rape, sodomy, or bestiality

Adultery, coupled with cruelty

Adultery, coupled with desertion without reasonable excuse for two years and upwards ; or

PETITION.

All proceedings before the Court for Divorce and Matrimonial Causes commence by filing a petition, which should be headed—

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

To the Right Honourable the President of the said Division.

The day of 188 .

“The Petition of Alfred Tongs of , sheweth :”—
not— “Tongs v. Tongs.”

It must be signed by the Petitioner.

Children.—The names and ages of the children, issue of the marriage, must be stated, and the custody of the children, if desired, must form part of the Prayer.

Damages.—If damages are claimed the amount must be inserted.

The charges should be fully and clearly stated, thus—

Adultery.—Name, time and place. With whom, when and where.

Cruelty.—Set forth the Acts, and when and where committed.

Desertion.—Must be for two years and upwards, without reasonable excuse. [For Judicial Separation, “without cause.”]

Accuracy as to Facts.—It is a matter of necessity that the names of the parties, and date and place of marriage should be accurately given; errors in these respects are frequently discovered when the Pleadings are completed, rendering necessary an amendment and sometimes even re-service of the Petition.

Marriage Certificate.—To avoid such errors, it would be well to obtain a copy of the Marriage Certificate and compare it with the Petition before filing same.

Charges.—The dates and places of the charges should also be fully stated, as vague statements lead to application for particulars, or for the amendment of the Petition by striking out the charges, *costs of which will not be allowed.*

Affidavit in Support.—With every Petition must be filed an affidavit made by the Petitioner, verifying the facts of which he or she has personal cognizance, and deposing as to belief in the truth of the other facts alleged, and that no collusion or connivance exists between the Petitioner and the Respondent. *Heading* must be "In the matter of the Petition of A. B., &c.," not the title of the Cause.—All other Pleadings and Affidavits are headed *in the name of the Cause.*

Petitioner of Age.—If the date of the Petition is within six years of the date of marriage, a certificate that the Petitioner is of age is required. This can be given by the Solicitor. No filing fee charged.

Minor Petitioner.—The Petition is presented by the person elected as Guardian, and the instrument of election must be filed before the Citation is extracted; or in the case of a *Minor Respondent*, before an appearance can be entered, but it is not necessary for a *Minor Co-Respondent* to have a Guardian for the purpose of conducting his defence.

Guardian.—The Guardian elected should be one of the next-of-kin, but if the next-of-kin renounces the Guardianship or the Minor elects some person other than the next-of-kin, application founded on affidavit is made to the Registrar to have such person assigned Guardian. See "Guardian."

Unknown Adulterers.—When it is impossible to ascertain the names of parties with whom adultery is charged—as for instance—That in the month of at the

said *A. B.* committed adultery with divers men unknown to your Petitioner ; or that on the day of the said *A.B.* was delivered of a child of which your Petitioner is not the father. Application must be made to the Court on motion, supported by affidavit showing what efforts have been made to discover the parties so charged, for leave to proceed without making them Co-Respondents.

Address unknown.—Where the names are given but the addresses of the parties cannot be ascertained, so as to serve them personally with the Petition and Citation, application must be made to the Court on Motion for “Substituted Service”—which see.

Filing Petition.—The Petition with the Affidavit and Citations, and Præcipe for each Citation (see “Citations”), is left at the Divorce Registry.

Service.—Copies of the Petition under seal are ordered for service. These can be made by the Solicitor for the purpose of expedition, but the same fees are paid as if made in the Registry. This copy is delivered when the Citation is served. The Citation is forwarded to the Registrar to be signed by him and afterwards taken to the Sealer. The Office Copies’ Petition, with the Citation sealed—everything being found correct—are to be obtained in the Public Office the day after leaving them.

The Copy under seal is served personally with the Copy Citation ; *must not be served by the Petitioner.*

FORM OF PETITION.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

To the Right Honourable the President of the said Division.

The day of 18 .

The Petition of *A.B.*, of _____, sheweth,—

1. That your petitioner was on the _____ day of _____ 18 _____, lawfully married to *C.B.*, then *C.D.*, [Spinster or Widow,] at _____
[*Here state where the marriage took place.*]
2. That after his said marriage your Petitioner lived and cohabited with his said wife at _____ and at _____, and that your Petitioner and his said wife have had issue of their said marriage children, to wit :
[*Here state the names and ages of the children.*]
3. That on the _____ day of _____ 18 _____, and on the _____ day of _____ 18 _____, at _____ in the county of _____, the said *C.B.* committed adultery with *R.S.* :
4. That your Petitioner claims from the said *R.S.* as damages in respect of such adultery the sum of £1000.

Your Petitioner therefore humbly prays,—

That your Lordship will be pleased to decree :

[*Here set out the relief sought with Prayer for custody of children if desired.*]

And that your Petitioner may have such further and other relief in the premises as to your Lordship may seem meet.

[*Petitioner's signature.*]

F E E S .

				<i>s.</i>	<i>d.</i>
Filing Petition	..	..	..	2	6
Affidavit	..	..	..	2	6
Sealing—each Citation	..	..	..	5	0
Office Copy—Petition	..	..	..	2	6
(or 6d. a folio above 5 folios)					
Examining	..	..	..	2	6
(or if above 10 folios, then 3d. a folio more)					
Sealing same	..	..	..	5	0

COSTS ALLOWED ON TAXATION.

	£	s.	d.
Instructions for Petition ..	0	6	8
Drawing and engrossing same, 10 folios (72 words a folio) or under, including copy to file	1	0	0
(Exceeding 10 folios, for every additional folio including copy to file, 1s. 4d.)			
Attending filing Petition and extracting Citation.. ..	0	6	8
Paid filing fee	0	2	6
Paid Office Copy under Seal..	0	12	6
Attending for Copy	0	6	8
If settled by Counsel—			
Attending Counsel with Peti- tion to settle	0	3	4
Copy for Counsel, per folio ..	0	0	4
Paid his Fee and Clerk ..	1	3	6

AMENDING PETITION AND OTHER DOCUMENTS.

Errors in, omissions from, or additions to the Petition (or other Pleadings) are corrected or supplied by amendment.

Withdrawing Charge.—It may be found that the evidence procurable against a Co-Respondent is not sufficient to prove the charge and if desired the Petition can be amended by striking it out. Should the Co-Respondent have entered an appearance he will probably ask for his costs on the hearing of the Summons to amend, which would be served upon him. If he has not appeared or the Citation not been served, then the Summons must still be taken out but no Service is necessary.

Adding Charges.—If it is desired to add further charges committed prior to the date of the Petition but only dis-

covered since filing the same, it can be amended on leave by Summons, supported by Affidavit of the Petitioner, verifying the facts, and also stating when he or she became aware of them; but if the acts charged are subsequent to the date of the Petition, then leave must be obtained on Summons to file a "Supplemental Petition,"—which see.

Order to Amend.—Take out a Summons (whether appearance has been entered or not) to show cause why the Petition should not be amended by adding further charges of adultery, by striking out paragraph 3, by withdrawing the claim for damages, or as the case may be.

If no appearance has been entered this Summons need not be served.

When and how Amended.—After the Order is made call at the Divorce Registry and make the amendment as directed by the Order.

The amendment is made in red ink and a marginal note written also in red ink in the following terms—"Amended pursuant to Order of 2 June, 1884," which is initialed by an Officer of the Department.

Fee for amending, 2s. 6d.

Service of amended Petition.—An Office Copy of the Amended Petition under seal must be served personally, unless otherwise ordered on the hearing of the Summons, when the necessity of Service should be a point of enquiry. *Affidavit of this Service* has to be filed.

When not re-served.—Mere clerical errors are allowed to be rectified, by Summons and Order, without re-service.

When to serve.—It is only necessary to re-serve the party affected by the amendment, so where a Citation has been issued in a case of "Pitt v. Pitt and Impey," and the Petition is amended by adding a charge of adultery against "Black," it would not be necessary to re-serve "Impey." A Citation and a Copy of the amended Petition, under seal,

would be served upon "Black," and a Copy, under seal, of the amended Petition would be served on the Respondent but without further Citation. So if a further charge of adultery was afterwards made by amendment against "Impey," no re-service on "Black" would be required. The Copy Petition so amended, under seal, would be re-served on the Respondent and on "Impey."

Other Documents.—Other pleadings or documents are amended in the same way, but if re-service is necessary the Registrar should be asked whether a plain Copy will be sufficient.

Allowed on Taxation.—Costs of amending are not allowed on taxation even if it can be shown that the facts necessitating the amendment were not within the knowledge of the party at the time the pleading was filed, except under very special circumstances.

	<i>s.</i>	<i>d.</i>
Fee for amending	2	6
Office Copy	2	6
Above 5 folios, 6d. a folio.		
Collecting and Certifying, first		
10 folios	2	6
Above 10 folios, 3d. a folio.		
Sealing	5	0

SUPPLEMENTAL PETITION.

This only becomes necessary—indeed only allowed—when any charge proposed to be made is consequent upon an Act subsequent to the date of the Petition.

Charges affecting Acts prior to the date of, but ascertained after filing the Petition, are made by "Amending Petition"—which see.

Leave to File.—Application to file a Supplemental Petition is by Summons—to be served on such of the parties affected by it who have appeared—i.e., if the charges are

against the Respondent and Co-Respondent in the original Petition, if they have appeared, their Solicitor should be served with the Summons.

Service.—If they have not appeared, service of the Summons is not required, but if the Supplemental Petition is allowed to be filed, an Office Copy of it under seal must be served personally. If by the charges in the Supplemental Petition another Co-Respondent is made in the cause, then the Respondent must be served with a copy of such *Supplemental Petition under seal*, and a similar copy with a *Citation* must be served on the additional Co-Respondent.

Affidavit Filed with.—This must be supported by Affidavit (as in case of Petition) which must contain a clause of no collusion or connivance existing between the Petitioner and Respondent. The Supplemental Petition is filed at the Divorce Registry, and the Fees and Costs allowed are similar to those of the "Petition."

AFFIDAVITS.

With every Petition must be filed an affidavit made by the Petitioner, verifying the facts of which he or she has personal cognizance, and deposing as to belief in the truth of the other facts alleged in the Petition, and stating that no collusion or connivance exists between the parties as required by 20 & 21 Vict., c. 85, sec. 41.

Sec. 41.—Every person seeking a decree of nullity of marriage, or a decree of judicial separation, or a dissolution of marriage, or decree in a suit of jactitation of marriage, shall, together with the Petition or other application for the same, file an affidavit verifying the same so far as he or she is able to do so, and stating that there is not any collusion or connivance *between the Deponent and the other party to the marriage.*

How drawn.—Every affidavit is to be drawn in the first person, and the addition and true place of abode of every Deponent is to be inserted therein, and when made by two or more persons, the names of the several deponents are to be written in the jurat. No affidavit will be accepted having any material part written on an erasure, or any interlineation not clearly marked by the initials of the authority before whom it was sworn.

Affidavit with Petition—Heading.—The affidavit to lead the Petition must be headed—

In the matter of the Petition of Alfred Blunt, for a dissolution of marriage—
not “Blunt v. Blunt,” and must be made by the Petitioner. Need not be served. *Other affidavits* should be headed in the name of the cause.

Affidavit with answer.—When an answer to a Petition is more than a mere traverse, an affidavit in support of any allegation must be filed with it, and contain the non-collusion and connivance clause, as with Petition.

Service.—Only copies of affidavits used independently need be served, such as Motions, Summonses, &c.

PERSONS BEFORE WHOM OATHS AND AFFIDAVITS
CAN BE SWORN.

In England—Before—

1. A Commissioner to administer Oaths in the Supreme Court of Judicature in England.
2. Registrars and District Registrars of this Division.
3. An authorized Officer of the Division.
4. A Surrogate of any Ecclesiastical Court acting as such, on the 1st January, 1858.

See 20 & 21 Vict., c. 77, sec. 27.

In Scotland, Ireland, Isle of Man, Channel Islands, Colonies, and any place out of England under the Dominion of Her Majesty.—Before any Court, Judge, Notary Public, or any person lawfully authorized in such country to administer Oaths. And also in the Isle of Man and Channel Islands, before certain other authorized persons. See 21 & 22, Vict., c. 108, sec. 21.

In Foreign parts out of Her Majesty's Dominion.—Before every British Ambassador, Envoy, Minister, Chargé d'Affaires, Secretary of Embassy or Legation, Consul, Vice-Consul, Acting Consul, Pro-Consul, and Consular Agent. Where there is no such person, before any Foreign Local Magistrate or other person having authority to administer an Oath there. See 21 & 22 Vict., c. 108, sec. 20.

In this latter case the Solicitor will certify that there is no British authority in the place before whom the affidavit could have been sworn.

FORMS OF JURAT.

Sworn at the Registry.

Sworn at Somerset House, Strand, in the County of
Middlesex, the day of 18 ,

Before me,

Consulate Office.

Sworn at the British Consulate at Paris, in the Republic
of France, on the day of 18 ,

Before me,

British Vice-Consul at Paris.

Re-Swearing.—Need not sign again nor strike out first
Jurat, merely write another Jurat and be sworn.

Re-sworn at on the day of 18 ,

Before me,

If one Deponent only—

Sworn at on the day of 18 ,

Before me,

If more than one Deponent—

Sworn by the said and (*give the Christian
and surnames of each Deponent*) at on the
day of 18 ,

Before me,

If the Deponent be a marks-man, or is blind or illiterate—

Sworn by the said at on the
day of 18 , this affidavit having been first
read over to him [*or her*], who seemed perfectly to
understand the same, and made his [*or her*] mark
thereto in my presence,

Before me,

John ^{his}
 × Scott.
 mark

If the Deponent be deaf and dumb—but can read—write out the usual form of Oath for him to read, then administer the Oath by pointing to the words of the Form and let him kiss the Book.

Jurat—Sworn at in the County of this
day of 18 ,

Before me,

If Deponent be deaf and dumb and unable to read, then the oath should be interpreted by signs, and the form of swearing through an interpreter (altered as to signs), and that applicable to a marks-man, adopted.

If the Deponent be unacquainted with the English language—

Oath of Interpreter—

You swear that you well understand the
and English languages, and that you have truly,
distinctly, and audibly interpreted the contents of
this affidavit to the Deponent *E.F.*, and that you will
truly interpret the Oath to be administered to him.
So help you God.

Sworn by the said at on the
day of 18 , by interpretation into
the language by *C.D.* of , who had
previously sworn that he was well acquainted with
both languages and faithfully to interpret.

Before me,

(The interpreter should sign his name on the affidavit
for the purpose of identification.

* AFFIRMATIONS AND ATTESTATIONS.

Affirmation by a Quaker, 3 & 4 William IV., c. 49.

Form of Affirmation.

*Is that your name and handwriting?

*I, *A.B.*, do solemnly, sincerely, and truly declare and affirm that the contents of this my affirmation are true.

Attestation.—Affirmed at _____ in the County
of this day of 18 ,
Before me,

Affirmation by a Separatist, 3 & 4 William IV., c. 82.

Affirmation.—I, *A.B.*, do in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare that I am a member of the religious sect called Separatists and that the taking of any oath is contrary to my religious belief as well as essentially opposed to the tenets of that sect. And I do also in the same solemn manner affirm and declare that the contents of this my affirmation are true.

Attestation.—Affirmed at _____ in the County of
in pursuance of the act 3 & 4 William IV., c. 82, this
day of 18 .
Before me,

A person who shall have been a Quaker or Moravian,
1 & 2 Vict., c. 77.

Affirmation.—Is that your name and handwriting?

I, *A.B.*, having been one of the people called Quakers, or of the United Brethren called Moravians, and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm that the contents of this my affirmation are true.

Attestation.—Affirmed by the affirmant *A.B.*, he having been one of the people called Quakers or of the United

*The affirmant repeats the Form of Affirmation after the Commissioner.

Brethren called Moravians, at _____ in the County
of _____ this _____ day of _____ 18 _____,

Before me,

Affirming under the Common Law Procedure Act,
17 & 18 Vict., c. 125, sec. 20.

I, *A.B.*, do solemnly, sincerely, and truly affirm and
declare that the taking of any oath is according to my
religious belief unlawful, and I do also solemnly, sincerely,
and truly affirm and declare that the contents of this my
affirmation are true.

Attestation affirmed by *A.B.*, at _____ this _____ day
of _____ 18 _____.

Before me,

Exhibits.—Documents annexed to and documents referred
to in the affidavit.

If as “hereunto annexed and marked by the letter A,”
must be filed with the affidavit.

If “produced and shown to me at the time of swearing
this my affidavit and marked with the letter A,” the document
need not be filed, but in each case the document is signed by
the Commissioner, and charged for accordingly, 1s.

Filing Fee 2s. 6d.

ALLOWED ON TAXATION.

	s.	d.
Instructions	6	8
Not allowed when made by the Solicitor in the Suit.		
Drawing Affidavit, per folio	1	0
Engrossing Affidavit, per folio	0	4
Copy for Service (when necessary), per folio	0	4
Service of same	2	6
Attending, or attending deponent to be sworn	6	8
Paid Commissioner	1	6
Attending Filing	6	8
Filing Fee	2	6

CITATIONS.

Citations.—Should be written plainly on the parchment form to be obtained at the Divorce Registry, or of Law Stationers, and contain the names and addresses of the parties, not “late of” as that suggests a difficulty in serving. “His” or “Her” Petition not “a Petition.”

Year of Reign.—The year of the Reign being invariably incorrectly stated, it is well to remember that Her Majesty ascended the Throne on the 20th June, 1837.

Charges.—All the charges contained in the Petition, “Cruelty,” “Adultery,” &c., are to be stated in the Citation, and in accordance with the words of the Statute applicable to the Petition.

Damages.—Claims for damages, or prayer for the custody of the children, are not to be inserted.

Service Abroad.—If the Citation is to be served out of England then further time for appearance should be given; for instance—

France	..	..	..	14 days.
Malta	..	..	..	21 „
America	..	..	..	30 „
India	..	..	..	2 months.
Australia	..	..	..	2 „

Duplicate Citations may be had if considered necessary, one to be sent to America or elsewhere, the other for service here in the event of party being on his way back.

Name and address of Party extracting Citation.—The name of the Solicitor (or the party extracting), and address, within 3 miles of the General Post Office, must appear at the bottom of the Citation, which should be folded in four and endorsed in the Cause.

Extracting.—The Citation with a Præcipe is left at the Divorce Registry with the Petition and Affidavit, and will

be obtained in the Public Office the following day signed and sealed (when the copy Petition is called for).

PRÆCIPUE FOR CITATION.

In the High Court of Justice,

Probate, Divorce, and Admiralty Division.

Citation for *A.B.*, of against *C.B.*, of , to
appear in a suit for by reason of
(Signed) *A.B.* in person,

or

C.D., solicitor for the said *A.B.*

[Here insert the address required within three miles of the General Post Office.] This is endorsed in the Cause. Fee for sealing, 5s.

Service shall be effected by personally delivering a true copy of the citation to the party cited, and producing the original, if required, together with a certified copy of the Petition, under seal of the Court. Must not be served by the Petitioner.

Acceptance of Service by a Solicitor will not suffice, even though it be followed by the entering of an appearance. If Personal Service cannot be effected, application must be made to the Court to substitute some other mode of service. See "Substituted Service."

When filed.—After service has been effected, the Citation, with a certificate of service endorsed thereon, must be filed in the Registry prior to the application to set the Cause down.

CERTIFICATE OF SERVICE.

This Citation was duly served by the under-signed *G.H.* on the within-named *C.B.* of at on the day of 18 .

(Signed) *G.H.*

Filing—after appearance.—If an appearance is entered, then the Citation only is to be filed.

Affidavit of Service.—If no appearance, the Citation must be annexed to an affidavit of service, and, of course, marked by the Commissioner before whom the affidavit is sworn. It is therefore as well when a Citation is sent abroad for service, to have an affidavit of service returned with it, in case no appearance should be entered, and particular instructions should be given as to the Citation being so annexed and marked by the Commissioner, otherwise it may have to be returned. The affidavit may also include the search for appearance.

When Citations are served on the Respondent and Co-Respondent by the same party, one affidavit of service annexing the two—or more—Citations is sufficient.

The Affidavit of Service and Search for Appearance may be a joint affidavit, where the service is by one and the search by another.

Lost Citation.—It being a direction of the Court that every Citation shall be returned and filed in the Registry, its loss incurs both expense and trouble, and sometimes even renders it necessary to begin *de novo*.

Application can be made to the Court on motion, if sufficient evidence of the service can be given, to dispense with further service, or if an examined copy of the Citation has been kept and can be annexed to an affidavit of service, the production of the original may be dispensed with. But when the time comes for setting down the Cause, the Registrar will not give his certificate that the pleadings are in order until he is perfectly satisfied as to the service, or the Court has dispensed with further service and allowed the cause to be set down without the return of the Citation.

CITATION BY WIFE FOR JUDICIAL SEPARATION.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith,
To *Edmund Turner*, of 33, New Place, Marylebone, in the County of Middlesex, Coffee House Keeper.

Whereas, *Sarah Turner*, of 6, Duke Street, Adelphi, in the said County of Middlesex, claiming to have been lawfully married to you, has filed *her* Petition against *you* in the Divorce Registry of Our said Court, praying for a judicial separation wherein she alleges that you have been guilty of—

adultery:

[or,]

cruelty towards her:

[or,]

desertion of her without cause for two years and upwards:

[or,]

adultery and cruelty to her and desertion of her without cause for two years and upwards:

[or,]

cruelty towards her and desertion of her without cause for two years and upwards.

Now this is to command you that within eight days after service hereof on you, inclusive of the day of such service, you do appear in Our said Court then and there to make answer to the said Petition, a Copy whereof, Sealed with the Seal of Our said Court, is herewith served upon you. And take notice that in default of your so doing, Our said Court will proceed to hear the said Charge proved in due course of

Law, and to pronounce sentence therein, your absence notwithstanding. And take further Notice, that, for the purpose aforesaid, you are to attend in person, or by your Solicitor, at the Divorce Registry of Our said Court, at Somerset House, Strand, in the County of Middlesex, and there to enter an appearance in a book provided for that purpose, without which you will not be allowed to address the Court, either in person or by counsel, at any stage of the proceedings in the cause. Dated at London the nineteenth day of December, one thousand eight hundred and eighty-four, and in the forty-eighth year of Our Reign.

Citation issued by A. B., of Chas. J. Middleton,
Solicitor for the Petitioner. Registrar.

CITATION BY HUSBAND FOR JUDICIAL SEPARATION.

To *C. B.*, of in the County of

Whereas *A. B.*, of &c., claiming to have been lawfully married to you has filed *his* Petition against *you* in the Divorce Registry of Our said Court, praying for a judicial separation, wherein he alleges that you have been guilty of—

cruelty towards him :

[or,]

desertion of him without cause for two years and upwards :

[or,]

cruelty towards him and desertion of him without cause for two years and upwards.

Now this is to command you, &c.

WIFE AGAINST HUSBAND FOR DISSOLUTION.

To *Philip D.*, of

Whereas *Eliza D.*, of claiming to have been lawfully married to you has filed *her* Petition against *you* in the

Divorce Registry of Our said Court praying for a *dissolution of marriage*, wherein she alleges that you have been guilty of—

adultery coupled with cruelty towards her :

[or,]

adultery coupled with desertion of her for two years and upwards, without reasonable excuse :

[or,]

adultery coupled with cruelty towards her and desertion of her for two years and upwards, without reasonable excuse :

[or,]

bigamy with adultery :

[or,]

incestuous adultery :

[or,]

rape :

[or,]

sodomy :

[or,]

bestiality :

Now this is to command you, &c.

HUSBAND AGAINST WIFE AND CO-RESPONDENT
FOR DISSOLUTION.

Citation against Respondent.

To *Sarah D.*, of

Whereas *Alfred D.*, of claiming to have been lawfully married to you, has filed *his* Petition against *you* in the Divorce Registry of Our said Court, praying for a *dissolution of marriage*, wherein he alleges that you have been guilty of *adultery*. Now this is to command you, &c.

**HUSBAND AGAINST WIFE AND CO-RESPONDENT
FOR DISSOLUTION.**

Citation against Co-Respondent.

To *George A.*, of

Whereas *Alfred D.*, of claiming to have been lawfully married to *Sarah D.*, has filed *his* Petition against *her* in the Divorce Registry of Our said Court, praying for a dissolution of marriage, wherein he alleges that you have been guilty of *adultery with her*. Now this is to command you, &c.

CITATION BY RESPONDENT.

29 Vict., c. 32, sec. 2.

In any suit instituted for dissolution of marriage, if the Respondent shall oppose the relief sought on the ground in case of such a suit instituted by a husband of his adultery, cruelty, or desertion, or in case of such a suit instituted by a wife on the ground of her adultery or cruelty, the Court may in such suit give to the Respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had filed a Petition seeking such relief.

This it will be seen only applies to cases where the prayer of the Petition is for dissolution. In the case of the husband being Respondent, and in his answer charging the Petitioner with adultery, the alleged adulterer must be made a Co-Respondent, a Citation against him extracted, and a sealed copy of the answer served with it. A copy of the Petition is not served on the Co-Respondent, nor is any Citation served on the Petitioner. The style of the Cause is only altered by adding the name of the Co-Respondent, thus:—

Rose v. Rose—Alfred Budd, cited.

Amy John

CITATION.

To *Alfred Budd*, of

Whereas *Amy Rose*, of claiming to have been lawfully married to *John Rose*, of , has filed her Petition against him in the Divorce Registry of Our said Court, praying for a dissolution of marriage, wherein she alleges that he has been guilty of adultery coupled with cruelty towards her : and Whereas the said *John Rose* has filed in the said Registry his answer to the said Petition, wherein he alleges that you have been guilty of adultery with the said *Amy Rose*, and prays for a dissolution of marriage. Now this is to Command you that within eight days after service hereof on you, inclusive of the day of such service, you do appear in Our said Court, then and there to make reply to the said answer, a copy whereof, sealed with the seal of Our said Court, is herewith served upon you. And take Notice, &c.

NULLITY OF MARRIAGE.

Decree Nisi dissolving prior marriage, not made Absolute.

To *Emma Chambers*, otherwise *Ellis*, of Ipswich, in the County of Suffolk :—

Whereas *Henry Chambers*, of Ipswich aforesaid, claiming to have been lawfully married to you, has filed *his* Petition against you in the Divorce Registry of Our said Court, praying that the ceremony of marriage had and solemnized at St. Luke's Church, Ipswich, aforesaid, on the 2nd day of February, 1883, between *him* and you may be pronounced null and void to all intents and purposes in the law whatever by reason that at the time of the celebration of such marriage, the *decree nisi* pronounced on the 1st day of August, 1882, dissolving the marriage of you and *Philip Ellis* had not been made absolute. Now this is to command you, &c.

NULLITY OF MARRIAGE.

Bigamy.

To *Emma Scott*, otherwise *Emma Talbot*, of Barnes, in the County of Surrey.

Whereas, *Charles Scott*, of 13, Wood Street, in the City of London, has filed *his* Petition against *you* in the Divorce Registry of Our said Court, praying, that the ceremony of marriage had and solemnized at St. Peter's Church, Barnes, aforesaid, on the 1st day of December, 1884, between him and you may be pronounced null and void to all intents and purposes in the law whatever, by reason *that John Talbot your lawful husband by a former marriage* was living at the time the said form or ceremony of marriage was solemnized between you the said *Emma Scott* and the said *Charles Scott*. Now this is to command you, &c.

NULLITY OF MARRIAGE. (*By Guardian.*)*Insane when married.*

To *James Lock*, of 14, Tudor Street, Bow, in the County of Middlesex.

Whereas, *Lucy Lock*, otherwise *Brown*, of 5, George Street, Bow, aforesaid, a minor, by J. B. her Guardian, duly elected, has filed *her* Petition against *you* in the Divorce Registry of Our said Court, praying that the ceremony of marriage had and solemnized at St. Luke's Church, Chelsea, in the County of Middlesex, on the 2nd day of May, 1884, between her and you may be pronounced null and void to all intents and purposes in the law whatever, by reason that at the time the said ceremony of marriage was solemnized, you the said *James Lock* were of unsound mind and incapable of contracting marriage. Now this is to command you, &c.

NULLITY.

Impotency of Husband.

To *Henry Beach*, of 55, Strand, in the County of Middlesex.

Whereas, *Sarah Beach*, otherwise *Lane*, of claiming to have been lawfully married to you, has filed her Petition against you in the Divorce Registry of Our said Court, praying that the ceremony of marriage had and solemnized at , on the day of 18 , between her and you may be pronounced null and void to all intents and purposes in the law whatever, by reason of the frigidity, impotency, and malformation* of the parts of generation of you, the said *Henry Beach*. Now this is to command you, &c.

NULLITY.

Consanguinity of Parties.

To *Annie Buller*, otherwise *Tuttle*, of 18, The Strand, in the County of Middlesex.

Whereas, *Charles Buller*, of , has filed his Petition against you in the Divorce Registry of Our said Court, praying that the ceremony of marriage had and solemnized at on the 1st day of January, 1884, between him and you, may be pronounced null and void to all intents and purposes in the law whatever, by reason that you are the lawful niece† of *Agnes Buller*, deceased, whilst living the lawful wife of him the said *Charles Buller*. Now this is to command you, &c.

JACTITATION OF MARRIAGE.

To *E. L.*, otherwise *T.*, of

Whereas *J. L.*, of has filed his Petition against you in the Divorce Registry of Our said Court, praying that you

* Husband's Citation against Wife—sufficient to say “by reason of the malformation of the parts and organs of generation of you the said Sarah Brown.”

† *Deceased Wife's Sister*—by reason that you are the natural and lawful sister of A.B., deceased, whilst living the lawful wife of him the said C.B.

be ordered to cease and desist from boasting and asserting that you are the wife of the said *J. L.*, and that you be enjoined perpetual silence in the premises. Now this is to command you, &c.

Form of Petition.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

To the Right Honourable the President of the said Division.

Dated

The Petition of *J. L.*, of _____, showeth:—

That *E. L.*, otherwise *T.*, of _____, did in and since the month of May, 1884, at _____ and at divers other places wilfully and without the authority of your Petitioner boast and assert that she was the wife of your Petitioner.

That the said *E. L.* is in nowise the wife of your Petitioner nor was she at the time of such boasting.

That the said *E. L.* refuses to desist from boasting and asserting that she is the wife of your Petitioner.

Your Petitioner therefore humbly prays that your Lordship will be pleased to order that the said *E. L.* do cease and desist from boasting and that she be enjoined perpetual silence in the premises, and that your Lordship will make such further and other orders in the premises as to your Lordship may seem meet.

J. L.

DECLARATION OF LEGITIMACY.

To *Alfred Butler*, of Windsor, in the County of Berks.

Whereas *Clifford Butler*, of Harrow, in the County of Middlesex, claiming to be domiciled in England and one of Our natural born subjects and to be the eldest legitimate

son of Christopher Butler and Adeline Butler, has filed his Petition in the Divorce Registry of Our said Court praying that the marriage between the said Christopher Butler and Adeline Butler be declared to be a valid marriage, and that he be declared to be the legitimate child and eldest son and issue of the said marriage. And whereas the Right Honourable Sir James Hannen, Knight, the President of the said Division, did by his Order bearing date the 21st day of May, 1884, order that you the said *Alfred Butler*, a natural and lawful brother of the said *Clifford Butler*, be cited to see the proceedings in this suit.

Now this is to command you, that within eight days of the service of this on you, inclusive of the day of such service, you do appear in Our said Court then and there to make answer to the said Petition, a copy whereof, sealed with the seal of Our said Court, is herewith served upon you. And take notice, that in default of your so doing, Our said Court will proceed to hear the said Petition proved in due course of law, and to pronounce judgment therein, your absence notwithstanding.

Citation issued by

RESTITUTION OF CONJUGAL RIGHTS.

To *Jane S.*, of

Whereas *Charles S.*, of , claiming to have been lawfully married to you, has filed *his* Petition against you in the Divorce Registry of Our said Court praying for a Restitution of Conjugal Rights. Now this is to command you, &c.

And take notice, that in default of your so doing, Our said Court will proceed to hear the said *Petition* proved in due course of law, &c.

In these cases before the Petition can be filed a *written* demand must be made to return to cohabitation and render

conjugal rights within fourteen days, and an affidavit in proof of this having been done must be brought in. This affidavit has to be approved by the Registrar before the Petition is filed.

FEEES.

	<i>s.</i>	<i>d.</i>
With the Præcipe	5	0

COSTS ALLOWED ON TAXATION.

	<i>s.</i>	<i>d.</i>
Instructions for Citation	6	8
Citation and Parchment and Præcipe	7	6
Attending getting sealed	6	8
Paid Stamp	5	0
Copy for Service	1	8
Service of Petition and Citation ..	5	0
(or according to circumstances)		
Certificate of Service .. .	2	6
Attending filing Citation	6	8
Paid Stamp	2	6
(If no appearance, then the Citation will be annexed to an Affidavit of Service, and further allowance)		
Attending Searching for Appearance (none found)	6	8
Drawing and Engrossing Affidavit of Service	6	8
Marking Exhibit	1	0
Attending Swearing	6	8
Paid Oath and Exhibit	2	6
Paid filing	2	6

APPEARANCE.

Entering.—Before an answer to *any* Petition can be filed, an appearance by or on behalf of the party must be entered in the following Form. This can only be done by the party, in person, or by his or her Solicitor.

APPEARANCE TO CITATION.

Petitioner's name in full.

Respondent's and Co-Respondent's names in full.

A. B. against C. B. and D. E.

F. G. and Co., of Solicitors, appear for the
Respondent.

(Name of Respondent or Co-Respondent or Solicitor, and Address within
three miles of the General Post Office.)

Entered this day of 18 .

This form is adapted to all appearances by simply altering
the notification—"Appearance to Citation"—as required,
thus :—

Appearance to Petition for Alimony *pendente lite*

„ „ „ Permanent Alimony

„ „ „ Variation of Settlements

„ „ under Protest.

The husband though not appearing to the Citation, may
yet enter an appearance to a Petition for Alimony and be
heard thereon, but this will not entitle him to be heard on
any other part of the case.

Trustees.—A solicitor acting for several trustees need not
enter an appearance for each, but may include them all in
one appearance.

Queen's Proctor.—A separate Appearance book is kept for
the Queen's Proctor, and parties intervening.

Stamps and Indexing.—The party entering the Appearance
will affix the stamps where indicated, and will also enter the
name of the Cause in the Index.

Notice of appearing should be given to the other side.

Out of time.—Take out a summons for further time, or
for leave to appear and file an answer, notwithstanding that
the time for so doing has expired.

Under Protest.—A party cited wishing to raise any question as to the jurisdiction of the Court will so appear; but after the entry of an absolute Appearance, no such question can be raised. *Rule 22.*

Amending.—Where this is necessary take out a summons for leave to amend, and make the alteration with red ink. Mere clerical errors the Registrars will allow to be corrected without summons.

FEES.

			s.	d.
Entering Appearance	..	..	2	0
Amending Appearance	..	..	2	6
Searching	..	..	1	0

COSTS ALLOWED ON TAXATION.

			s.	d.
Attending entering Appearance	..		6	8
Paid Fees	..	..	2	0
Drawing and Service of Notice of Appearance	..	..	4	0

ANSWER, REPLY, &c.

Filing answer to Petition.—An appearance having been entered the answer must be filed at the Divorce Registry within 21 days after service of the Citation, exclusive of Sundays and exclusive of the day of service, unless extension of time by summons has been obtained. *Rule 28.*

Citation served Abroad.—Where the time stated in the Citation for entering an appearance is more than 8 days the answer may be filed within 14 days after the expiration of such extended time, so if 31 days are given in the Citation for entering the appearance the time within which the answer may be filed will be 45 days, *exclusive of Sundays and the day of Service.* *Rule 186.*

FORM OF ANSWER.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

The day of 18 .

A.B. v. C.B., and R.S.

The Respondent *C.B.*, by *C.D.*, her solicitor [*or in person*], in answer to the Petition filed in this cause, saith,—

1. That she denies that she committed adultery with *R.S.*, as set forth in the said Petition :
2. Respondent further saith, that on the day of 18 , the said *A.B.*, at in the County of , committed adultery with *K.L.*
[*In like manner Respondent is to state connivance, condonation, or other matters relied on as a ground for dismissing the Petition.*]

Wherefore this Respondent humbly prays,—

That your Lordship will be pleased to reject the prayer of the said Petition, and decree, &c. The prayer in *Respondent's Answer* may be for any relief similar to that prayed for in the Petition.

It need not be signed.

Affidavit.—No Affidavit is necessary if the answer is a simple traverse of the charges contained in the Petition, but where counter charges are made they must be supported by Affidavit, made by the party, and in Respondent's case such Affidavit must further state that “no collusion or connivance exists between me the Deponent and the Petitioner.”—Rule 31. The Co-Respondent is not required to depose as to no collusion or connivance.

Facts in Answer.—Need not set out *seriatim* the charges in the Petition, sufficient to say “the Respondent by his or her Solicitor (or in person), in answer to the Petition filed

in this cause, denies the charges as set forth in the said Petition" and if the answer is such as to require an Affidavit, then the answer may be contained in the Affidavit and filed as one document.

Service.—A plain copy of the answer is sufficient for service; serve on Solicitor of Petitioner or if Petitioner is conducting the suit in person, leave the copy at the address given in Petition. Copy Affidavit need not be served.

Out of Time.—Any pleading not filed within the time allowed cannot be filed without leave, to be obtained on Summons, Rule 37, and if filed notwithstanding the time for so doing has elapsed, the error will be discovered when application is made for the Registrar's Certificate to set the cause down, and leave will have to be obtained by Summons for the pleading to remain as filed.

Reply.—Within 14 days from the delivery of the answer the Petitioner may file a reply, if necessary.

When not required.—A reply is unnecessary where the answer is a simple traverse or where mere justification is pleaded, as when "the Respondent denies that he has been guilty of cruelty as alleged, but if so, the same was caused by provocation."

Form.—Similar to the answer. The reply to answer given above would be—

The day of 18 .

A.B. v. C.B., and R.S.

The Petitioner *A.B.* by *C.S.*, his Solicitor, in reply to the Respondent's answer filed in this cause, saith—

That he denies that he has been guilty of adultery as alleged.

Wherefore the Petitioner prays as before.

Service.—Same as in the case of *Answer*.

Rejoinder, and all subsequent pleadings are filed within 14 days of the delivery of the pleading they answer, and plain copies delivered to the opposite parties.

FEEs.

Filing Answer; Reply, or any other pleading, 2s. 6d.

ALLOWED ON TAXATION.

	£	s.	d.
Instructions to defend ..	0	6	8
Attending retaining Mr. ..	0	6	8
Paid his Fee and Clerk ..	1	3	6
Perusing Petition	0	6	8
Perusing Citation	0	1	4
Attending entering appearance	0	6	8
Paid	0	2	0
Notice of appearance	0	4	0
Instructions for Answer ..	0	6	8
Drawing same and Copy ..	1	0	0
Drawing Affidavit in support of			
Answer	0	13	4
Attending Respondent swearing	0	6	8
Paid Commissioner	0	1	6
Attending filing Answer and			
Affidavit	0	6	8
Paid	0	5	0
Copy Answer for service, per			
folio	0	0	4
Attending serving Petitioner's			
Solicitor	0	3	4

SETTING CAUSE DOWN FOR HEARING.

(Before the Court itself.)

How applied for.—It is not now necessary to move the Court for directions (Rule 205). The Pleadings being concluded, fill up the following Form of Application for the Registrar's Certificate (to be obtained at the Divorce Registry) and leave it there with the *certificate of marriage* annexed to it.

When applied for.—This application may be left as soon as time for entering an appearance has expired, *on filing an Affidavit of Service of Citation and of Search for Appearance*. If an *Appearance* has been entered, then as soon as time for filing Answer has expired, on filing an Affidavit of Search for Answer. If an Answer is filed, then as soon as the Pleadings are completed. If an Answer has been filed to the Petition for Alimony, but no Answer filed to the Petition itself, then the Affidavit of Search will state, "No Answer excepting an Answer to the Petition for Alimony."

AFFIDAVIT OF SEARCH FOR APPEARANCE.

[Usual heading.]

B. against B. and D.

I, of make oath and say that I did on the
day of one thousand eight hundred and search
the book kept in the Divorce Registry of the High Court of
Justice for entering Appearances by or on behalf of parties
cited, to ascertain whether or not any Appearance has been
entered by or on behalf of A. B., the Respondent, or
C. D., the Co-Respondent in this cause, and that I find no
Appearance has been entered by or on behalf of the said
A. B. or C. D., or by or on behalf of either of them.

Sworn at, &c.

AFFIDAVIT OF SEARCH FOR ANSWER.

[*Usual heading.*]

C. against C. and G.

I, of make oath and say that I did on the day of one thousand eight hundred and search the Court Minutes at the Divorce Registry of the High Court of Justice to ascertain whether or not any Answer had been filed by, or on behalf of *K. C.*, the Respondent, or *T. G.*, the Co-Respondent in this cause, and that I find no Answer ["excepting an Answer to the Petition for Alimony herein," if such has been filed] has been filed by them or on their behalf, or by or on behalf of either of them.

Sworn at, &c.

FORM OF APPLICATION.

[*Usual heading.*]

Frank against Frank.

The Petitioner hereby applies for the Certificate of the Registrar that the proceedings in the cause are correct and the pleadings in order.

The cause is *undefended*.

The issues to be tried by a () Jury; the damages to be assessed by a () Jury.

Dated 1st day of August, 1884.

A. G., Solicitor for the Petitioner.

No fee is payable on leaving this Application; no allowance made for drawing it.

This will be forwarded to the Registrar, and if the proceedings are found to be in order he will sign his Certificate, which will be obtained at the Registry three or four days afterwards, and the cause can then be set down.

Rule 206.

CAUSES BEFORE THE COURT ITSELF.

Fill up the following Præcipe, to be obtained at the Registry :—

PRÆCIPE.

Frank v. Frank, George, and Gibson.

Petitioner hereby sets this Cause down for hearing before the Court itself

[(un)defended]

for Dissolution of Marriage (or otherwise).

Dated 25th day of February, 1884.

Solicitor for the Petitioner.

And leave it at the Divorce Registry with the Fees—

		£	s.	d.
Setting down Cause	.. ..	2	0	0
Drawing Decree	.. ..	1	0	0
Filing Certificate	.. ..	0	2	6

If appearance entered, then the same with the addition of the following Notice and fee for filing, 2s. 6d.

NOTICE.

Frank v. Frank, George, and Gibson.

Take Notice, that this cause has been set down for hearing before the Court itself.

Dated 25th day of February, 1884.

Petitioner's Solicitor.

To Messrs. L. & M., Solicitors for the Respondent and Co-Respondents.

JURY CAUSES.

Damages.—If damages are claimed the cause will be tried before the Court with a Common Jury, without any special direction, and the questions for the Jury, *in draft*, must be brought in to be settled by one of the Registrars, *unless it be an undefended cause in which case no questions are required.*

No Damages.—Either party to the cause desiring a Jury must apply by Summons for the cause to be so tried.

DAMAGES CLAIMED.

Cause Undefended.

No Appearance.—Fill up the application for the Registrar's Certificate and when that is obtained fill up and leave with it a præcipe and the following Fees—

	£	s.	d.
Setting cause down	2	0	0
Drawing decree	1	0	0
Filing Registrar's Certificate	0	2	6

Appearance.—Though the cause be undefended an appearance may have been entered, in which case notice of setting down must be delivered, and a copy filed with further Fee.

Filing notice, 2s. 6d.

Defended Cause.

The questions for the Jury to be settled.—With the application for the Registrar's certificate the questions for the jury, *in draft*, must be left at the Divorce Registry, to be settled by the Registrar. Fee for settling, 10s. These may be called for two or three days afterwards, and, if settled, a plain copy should be served on the Solicitors of the other parties. If no objections be raised by the opposite party, the questions should, after eight days from service, be engrossed on parchment, and, *with the draft*, be left at the Divorce Registry—and the Cause set down. If any objections raised, then obtain an appointment before Registrar to have them considered and settled. The Juries are obtained by the Court; no panel is now necessary.

FEES.

	£	s.	d.
Filing Draft Question ..	0	2	6
„ Questions on Parchment	0	2	6
Setting Cause down	2	0	0
Drawing Decree	1	0	0
Filing Notice	0	2	6
„ Certificate	0	2	6
	<hr/>	<hr/>	<hr/>
	3	10	0

QUESTIONS FOR THE JURY.

Frank, v. Frank, George, and Gibson,
Thomas, Kate, Alexander, Samuel.

If the Respondent and Co-Respondent George have not appeared, the only question for the Jury would be—

1. Whether the Co-Respondent Samuel Gibson has committed adultery with Kate Frank the Respondent.

If damages are claimed, then add—

2. What amount of damages should be paid by Alexander George, the Co-Respondent, in respect to the adultery (if any) committed by him with Kate Frank, the Respondent.
3. What amount of damages should be paid by the Co-Respondent Samuel Gibson, in respect of the adultery (if any) by him committed with Kate Frank, the Respondent.

ANSWER—SIMPLY DENYING.

If each of the parties has filed an Answer simply denying,
the questions would be—

1. Whether Kate Frank, the Respondent, has committed adultery with Alexander George, the Co-Respondent.
2. Whether the Co-Respondent, Alexander George, has committed adultery with the Respondent, Kate Frank.
3. Whether Kate Frank, the Respondent, has committed adultery with Samuel Gibson, the Co-Respondent.
4. Whether the Co-Respondent, Samuel Gibson, has committed adultery with the Respondent, Kate Frank.

5. What amount of damages should be paid by Alexander George, the Co-Respondent, in respect of the adultery (if any) by him committed with the Respondent, Kate Frank.
6. What amount of damages should be paid by Samuel Gibson, the Co-Respondent, in respect of the adultery (if any) by him committed with the Respondent, Kate Frank.

ANSWER, WITH CHARGES.

If each has filed an Answer, and *the Respondent* has charged the Petitioner with adultery and cruelty, and *the Co-Respondents* have charged condonation and connivance and collusion, then the additional questions would be—

7. Whether Thomas Frank, the Petitioner, has committed adultery.
8. Whether Thomas Frank, the Petitioner, has been guilty of cruelty towards Kate Frank, the Respondent.
9. Whether Thomas Frank, the Petitioner, has condoned the adultery (if any) committed by the Co-Respondent, Alexander George, with the said Kate Frank.
10. Whether Thomas Frank, the Petitioner, has connived at the adultery (if any) committed by Kate Frank, the Respondent, with the Co-Respondent, Alexander George.
11. Whether Thomas Frank, the Petitioner, has condoned the adultery (if any) committed by Kate Frank, the Respondent, with the Co-Respondent, Samuel Gibson.

12. Whether Thomas Frank, the Petitioner, has connived at the adultery (if any) committed by Kate Frank, the Respondent, with the Co-Respondent, Samuel Gibson.

13. Whether Thomas Frank and Kate Frank are acting in collusion.

If charges of adultery are made against the Respondent with persons other than those made Co-Respondents, the question would be—

Whether Kate Frank, the Respondent, has committed adultery with persons other than Alexander George and Samuel Gibson, the Co-Respondents.

The List is closed ten days before the next Sittings.

SUBPŒNAS.

May be extracted any time after the Citation has issued.

Number of Witnesses.—Each Subpœna may contain 3 names.

Service.—Need only be served once, afterwards sufficient to give the witnesses notice when they are required to attend, Rule 180.

Renewal.—Need not be renewed each sittings, Rule 180.

Service in Ireland.—Special leave to issue a Subpœna to be served in Ireland is not required. *The Court may issue Writs of Subpœna, and such Writs may be served in any part of Great Britain or Ireland, and every person served with such Writs shall be bound to attend, &c.* 20 & 21 Vict., c. 85, sec. 49.

Sealing.—Take a Subpœna filled up (except as to names of witnesses which may be afterwards added) with a Præcipe to the Divorce Registry. The Subpœna is then sealed and issued; the Præcipe is left with a 5s. stamp. If 2 or more

Subpoenas are issued one *Præcipe* for all is sufficient with the additional Fees. Forms may be obtained at the Registry.

PARTY OR WITNESS A PRISONER.

How served.—To serve a Citation on a prisoner, application must be made by letter to the Director of Convict Prisons, Whitehall, for leave to do so. The application is submitted to the Board, and in due course the Solicitor will receive permission to serve the documents in accordance with instructions sent to the governor of the prison where the party is confined.

Witness or Party a Prisoner.—His attendance in Court on the hearing of the case is obtained by application at the Registry for a Judge's Order upon an Affidavit, showing that the party is a prisoner confined in a certain prison, and that his evidence is necessary; no Summons necessary. This application is made shortly before the Cause is likely to be in the paper.

ALLOWED ON TAXATION.

	s.	d.
Drawing with <i>Præcipe</i> and attending		
getting same sealed	6	8
Paid	5	0
Service	5	0
Mileage—if more than 2 miles, 1s. a mile one way.		

CAUSE LIST.

Part Heard—Struck Out—Postponed—Reserved List—Stay of Proceedings.

Searching List.—When the class of Causes to which his case belongs is being heard, the Solicitor should vigilantly watch the List and be prepared for hearing. This is

particularly necessary when undefended Causes are being taken, as two Courts are frequently sitting. No notice of the case being in the Paper is sent, and the Daily List is not made up before the afternoon of the previous day, and as to which, information can only be obtained at the Court.

Struck out—The case being called and no one appearing the following order is made—

On the Cause being called and neither the Petitioner nor any person on his behalf appearing, it is ordered that the Cause be struck out of the List of Causes for hearing.

To Reinstate.—Application must be made to the Court on motion, supported by affidavit, explaining why parties were not prepared when the case was called on, and if satisfied, the Court will direct it to be restored to the List.

Postponing the Hearing.—Application must be made to the Court by Summons or Motion.

Part heard cases—further hearing.—Notice must be given by the Solicitor to Mr. Widdicombe, the Clerk of the Rules, when the parties are ready to proceed. The case will then be placed in the List for hearing whenever the Court is taking similar cases.

Reserved List, how placed in.—Application for Cause to be placed in the Reserved List is made by Summons or motion.

How Removed.—To be replaced in the List of Causes for hearing, the Petitioner's Solicitor must give ten days' notice in writing to the other parties and file a copy of such notice in the Registry; otherwise, those Causes standing in this List for twelve months are called out in Court some Tuesday during the Michaelmas Sittings and no one appearing to make any application with regard to them, they are struck out. *The following notice is sent to the Petitioner's Solicitor.*

Causes in the reserved List which have been standing over beyond a year will be called over on Tuesday the 23rd November instant.

Stay—Costs.—The Cause in the List and stay of proceedings desired; application must be made to the Court on motion supported by Affidavit, notice, of course, being given to the other side. When the stay is removed—either by Bond being filed, or sum paid as directed—notice *with date of compliance* should be given by the Solicitor to Mr. Widdicombe, as before.

Commission.—The issue of a commission will not stay the hearing unless it is so ordered when applied for, and then the stay is removed on its return. No notice of this return required to be given.

Filing notice, 2s. 6d.

WIFE'S COSTS OF HEARING.

Estimated by Registrar.—The Registrar's Certificate to set the Cause down having been obtained the wife's Solicitor can apply to the Registrar to ascertain what is a sufficient sum to be paid into Court or secured by the husband, to cover the costs of the wife incidental to the Hearing. Rule 158.

When.—This is generally done when the wife's costs up to setting down are taxed.

How estimated.—The chief points considered by the Registrar, are—

Number of Witnesses, their trade or profession, and where they come from.

Length of Brief.

Counsel's Fees.

Subpœnas.

Solicitor's Charges.

Order.—The Order directs that the husband do within seven days pay into the Divorce Registry the estimated sum, or give bond under his hand and seal and of two sufficient sureties for double the amount; forty-eight hours' notice of proposed sureties being given to wife's Solicitor.

Stay of Proceedings.—This Order, *where the wife is Respondent*, operates as a stay of proceedings *from the day it is made until it is complied with*, and if the Cause is in the List for Hearing, it is marked "Stayed—Security." If the Order is not complied with in the time given the Cause will not be heard until after ten days have elapsed from notice of compliance being given.

Where the wife is Petitioner a similar Order is made omitting the direction "that all further proceedings be stayed, &c." She, having the conduct of the Cause as Petitioner, can elect whether the Cause should be marked

"stayed," and if so desired, such direction should form part of the Order and Notice given, if Cause in List, to have it so marked. If not asked for when Order made, but afterwards required, application must be made to the Court on summons.

Stay removed.—When the Order is complied with and the stay removed, notice with the date of such compliance should be given at Court by the Solicitor, so that the Cause may come on in its turn. Filing Notice, 2s. 6d.

Paying in.—If it is elected to pay the estimated amount into Court, fill up an Order for Lodgment in duplicate, and proceed as stated under "*Paying in and out.*" Which see.

Bond—How prepared.—If it is preferred to give security the husband's Solicitor will prepare the Bond in Draft, and submit it to the wife's Solicitor for his approval to be endorsed on it, and if he has no objection to raise he will return the same so approved within two days when the bond can be engrossed on ordinary foolscap (not parchment) and executed, and the approval of the other side endorsed on it, and the Registrar's minute for filing same drawn up by the Solicitor.

Filing.—The Bond and Minute are then filed at the Divorce Registry.

Notice.—He should then give notice to the wife's Solicitor that he has done so.

FEEs.

			s.	d.
Registrar's Minute .. ..	..	..	3	0
Filing Bond .. ..	..	..	2	6

BOND FOR SECURING WIFE'S COSTS.

[Impressed Stamp.]

Know all men by these presents that We, A.B. of &c., G.H. of &c., and K.L. of &c., are held and firmly bound

unto *X.Y.*, the Solicitor for *C.B.*, of in the penal sum of pounds of good and lawful money of Great Britain, to be paid to the said *X.Y.*, and for which payment to be well and truly made we bind ourselves and each of us for the whole, our heirs, executors, or administrators firmly by these presents. Sealed with our seals.

Dated the day of in the year of our Lord 18 .

Whereas a certain Cause is now depending in the Probate, Divorce, and Admiralty Division of the High Court of Justice, between the said *A.B.*, Petitioner of the one part, and *C.B.*, Respondent, and *E.F.*, Co-Respondent, of the other part. And whereas by an Order made in the said Cause, it was ordered that the said *A.B.*, Petitioner (or Respondent), should within days from the service thereof, pay or cause to be paid into the Divorce Registry of the said Division the sum of pounds to cover the costs of the said Respondent (or Petitioner) of and incidental to the hearing of the said Cause, or file in the said Registry a bond under the hand and seal of the said *A.B.*, and of two sufficient sureties in the penal sum of pounds, conditioned for the payment of such costs of the said *C.B.* as shall be certified to be due and payable by the said *A.B.*, not exceeding the said sum of pounds as security for the costs aforesaid. Now the condition of this obligation is such that if the above-bounden *A.B.*, his heirs, executors, or administrators shall well and truly pay or cause to be paid to the above-named *X.Y.*, his heirs, executors, administrators, or assigns the full sum of of good and lawful money of Great Britain, or the lawful costs of the said *C.B.*, the Respondent (or Petitioner) of and incidental to the hearing and trial of this Cause, to the extent of pounds, then this obligation is to be void and of none effect, otherwise to remain in full force and virtue.

Sealed and delivered by the said *A.B.*, *G.H.*, and *K.L.*,
in the presence of

F.W., of

One attesting witness.

A.B. (L.S.)

We approve of this Bond,

G.H. (L.S.)

X. Y., Respondent's Solicitor.

K.L. (L.S.)

REGISTRAR'S MINUTE DEPOSITING BOND.

A. B. v. C. B. and E. F.

Messrs. *W. & H.*, of _____, the Solicitors for
the Petitioner in this Cause, referring to the Order of
Esqre., one of the Registrars of the Probate,
Divorce, and Admiralty Division of the High Court of
Justice, made in this Cause and bearing date the _____ day
of _____, 18____, whereby it was ordered that the Petitioner
do pay into the Divorce Registry the sum of _____ as
sufficient to cover the costs and expenses of the Respondent
of and incidental to the trial of the Cause or do give security
for the said costs in the penal sum of _____ brought into
and deposited in the said Registry, a Bond under the hands
and seals of the said Petitioner and of two Sureties in the
penal sum of _____

Mr. *X. Y.*, the Solicitor for the Respondent, having
under his hands approved the said Bond, the under-
signed Registrar of the said Division ordered the said
Bond to be filed.

Dated _____ 18____.

David Henry Owen,

Registrar.

Neither Approving nor Disapproving.—The wife's Solicitor
returning the Draft Bond without approving the same, or
neglecting to return it within the time (*two days after
delivery*) allowed for his objecting, the husband's Solicitor on
filing his Certificate of delivery of the Draft may bring in
the Bond and Minute and proceed, as before, to file the same.

Bond not Approved.—The wife's Solicitor refusing to approve the Bond, the difficulty may be surmounted by the Sureties justifying.

Sureties Justifying.—The Solicitor should file at the Divorce Registry an Affidavit by the Sureties to the following effect, which, with the Bond and Minute, would then be forwarded to the Registrar. The Registrar having signed the Minute, the Bond and Affidavit would be filed with it. Bond for £60. Penalty £120.

AFFIDAVIT JUSTIFYING.

[*Usual heading.*]

R. against R.

We, C. L., of _____, and D. C., of _____, the proposed Sureties for *D. R.*, the Petitioner in this Cause, severally make Oath and say as follows :—

I, C. L., for myself, say that I am worth more than the sum of £60 after payment of all my debts, and
I, D. C., for myself, say that I am worth more than the sum of £60 after payment of all my debts.

Sworn by the said C. L. and D. C. at, &c. C. L.
D. C.

Objecting to Justification.—The wife's Solicitor further objecting would take out a Summons to show cause why the Sureties should not be examined before the Registrar as to their means. An appointment would, on the Order being made, have to be obtained, and the Sureties would be examined on oath, and if still dissatisfied the Solicitor could appeal from the Registrar's decision to the Judge in Chambers.

Ask for Costs at Hearing.—As the estimated amount of costs for the hearing fixed by the Registrar is really for the security of the Solicitor, it is incumbent on him to see that his Counsel at the end of the trial asks for the wife's costs, for by Rule 159 no costs of the wife of and incidental to the

hearing—the decision being against her—shall be allowed as against the husband except such as shall be applied for and allowed by the Judge at the time of hearing.

Usual Order—Wife Unsuccessful.—The Order forms part of the *decree nisi*, and, where the wife is unsuccessful in the Cause, is to the effect that she be paid her taxed costs, not exceeding the sum paid into Court or secured to cover the same.

Taxing.—If the husband's Solicitor consents to the costs as estimated the bill need not be taxed, and an order will be made for payment at once, otherwise the bill must be taxed.

Payment.—On taxation the certificate may be for less than the estimated sum; in such case the payment may be arranged between the Solicitors. The husband's Solicitor may pay the taxed costs and take out a Summons to show cause why the amount paid into Court to secure the same should not be paid out to him, he having paid the costs; or he may consent to the amount being paid out to the wife's Solicitor *without taxation of the Bill*; or, the Bill being taxed, the wife's Solicitor can obtain the usual "*Authority for Payment*" on the Registrar's Certificate. Should the taxed costs amount to £20 and a sum of £25 had been paid into Court to secure the same, the husband's Solicitor will then have to apply by Summons for an Order that the balance, £5, be paid to him and proceed accordingly.—See "Paying out."

Wife Succeeding.—The husband would by the decree simply be condemned in the costs, and her bill being taxed the order for payment would direct the amount of the costs so taxed (or if he had already paid in or secured a sum estimated by the Registrar for her costs, and the costs as taxed exceeded that amount, the order would be for the balance) to be *paid into Court*, there to remain (with the sum so already paid in or secured) until the decree absolute had been obtained. Rule 201.

Enforcing Bond.—Wife's Solicitor will take out a Summons to show cause why the Bond should not be given out to him for the purpose of the same being sued upon. The order being made, he will apply at the Divorce Registry for the Bond and give his receipt.

Service.—This Summons would, of course, be served on the husband's Solicitor, but not upon the Sureties.

Receipt would be given for the document, fee 2s. 6d.

ALLOWED ON TAXATION.

Wife's Solicitor.

			s.	d.
Perusing Draft Bond	..	..	6	8
Making Copy to keep	..	..	3	4
Attending making enquiry as to sufficiency of Sureties	..	..	13	4
Attending Petitioner's Solicitor with Draft and endorsing consent thereon	..	..	6	8

Husband's Solicitor.

Instructions for Bond	..	..	6	8
Drawing Bond, 8 fols., 1s. per fol.	..	..	8	0
Attending Respondent's Solicitor with Draft	..	..	3	4
Engrossing Bond for Execution, 4d. per fol.	..	..	2	8
Attending Execution of Bond	..	..	6	8
Attending Stamp Office to get same Stamped	..	..	6	8
Paid Stamp	..	..	5	0
Drawing and Engrossing Registrar's Minute to file Bond	..	..	3	4

Attending Registry filing Bond and			
Minute	6	8	
Paid Fees	5	6	
Notice to Respondent's Solicitor of			
filing	4	0	
Sureties Justifying: the additional			
Allowance for an Affidavit and			
Filing Fee of	2	6	
If Money Paid into Court.			
Attending at Registry with Lodgment			
Order for Registrar's Signature	6	8	
Drawing same in duplicate		Nil	
Attending at Paymaster General's,			
Royal Courts, and Depositing			
Money	6	8	
Notice of Paying in to other Side ..	4	0	



DECREE NISI.

The *decree nisi* is drawn by the Registrar and signed by him.

Office Copy.—Can be ordered any time after it is pronounced. *Need not be served.* When served, sometimes, the Decree contains other orders requiring to be served, such as *Damages to be paid into Court*, or, *as to custody of children*, or *other direction*, and copy of such portion of the Decree can be ordered for Service.

Documents filed.—All Papers filed or handed in at the Hearing are retained until the Decree is made absolute.

Petition dismissed. New Trial.—Application for a new Trial must be made by motion within 14 days after trial or hearing if the Court be sitting; if not, on the first motion day when sitting. If refused, appeal from such decision must be made within 14 days to Court of appeal. 23 & 24 Vict., c. 144, sec. 2.

JURY DISCHARGED WITHOUT GIVING A VERDICT.

Rehearing.—The Cause can be placed in the List again for hearing without further directions, or without further Fees, notice being given to the other side. If amendment of any of the Pleadings is desired such must be made in the usual way, by summons. If, however, the Jury has found a verdict (for, or against) in respect of one or more of the issues and was unable to agree as to the others, *only those issues upon which they could not agree would be tried again*, unless by application on motion, leave is obtained for a rehearing of the others.

INTERVENERS.

Under the provisions of 23 & 24 Vict., c. 144, sec. 7, and 36 Vict., c. 31, sec. 1, any person (not being a party to the Suit) shall be at liberty to show cause why a *decree*

nisi for Dissolution, or for Nullity of Marriage, should not be made absolute by reason of the same having been obtained by collusion or by reason of *material facts not brought before the Court*, and at any time during the progress of the Cause or before the decree is made absolute, any person may give information to Her Majesty's Proctor of any matter material to the due decision of the case, who may thereupon take such steps as the Attorney-General may deem necessary or expedient.

Intervening.—Her Majesty's Proctor, or any person intervening, enters an Appearance in a book kept for that purpose at the Divorce Registry, and within 14 days from the date of such Appearance files his Plea and delivers a copy thereof to the Petitioner or to the person in whose favour the *decree nisi* has been pronounced or to his or her Solicitor, and all subsequent pleadings and proceedings are carried on in like manner as those under the original Petitions.

Security for Costs.—Though Her Majesty's Proctor, if he fails in his intervention, may be condemned in costs, he is never directed to give security for such pending the enquiry, but an Order for Security may be applied for against any other person intervening.

Fees the same as in original Petitions.

DECREE ABSOLUTE.

When Applied for.—After the expiration of six calendar months from the date of the *decree nisi*, application can be made to make it absolute.

When not Applied for. Respondent's Application.—The Petitioner neglecting, delaying, or not proceeding to apply (after the time for so doing has expired) for the *decree nisi* to be made absolute, the Respondent may move the Court to dismiss the Petition for want of prosecution; but the Court will not make a decree absolute on Respondent's application.

How applied for.—Until recently it was necessary to apply to the Court by motion; this is not now required. Rule 207. For this it is sufficient to leave at the Divorce Registry, *any Wednesday during the Sittings*, an Affidavit of Search and a Notice (Forms below).

Every motion day the Registrar, after the hearing of the motions, reads a list of Causes in which applications have been made for decrees absolute, and the Court, satisfied that the six months have expired and no intervention exists, pronounces the decree.

Affidavit of Delay.—If, however, the application be not made within twelve months from the date of the *decree nisi*, an affidavit in explanation of the delay must also be filed; and *if want of funds* is the reason assigned, then it must be further stated whether *that is the only reason*.

Time of Search.—The Search must be made within six days of the motion day. Rule 194.

Errors.—Attention should be given to the dates contained in the affidavit, errors being frequently made in referring to the date of the Search and the date of the decree nisi, necessitating the amending and re-swearing of the affidavit and delaying the pronouncing of the decree.

AFFIDAVIT OF SEARCH IN SUPPORT OF MOTION FOR
DECREE ABSOLUTE.

A.B. against *C.B.* and *E.F.*

I, *C.D.* of &c., Solicitor for *A.B.* the Petitioner in this Cause make oath and say, that on the first day of December, 1884, I carefully searched the books kept in the Registry of this Court for the purpose of entering appearances, from and including the first day of May, 1884, the day of the date of the *decree nisi* made in this Cause, to the first day of December, 1884, and that during such period no appearance has been entered in the said books by Her Majesty's

Procurator General, or by or on behalf of any other person or persons whomsoever. And I further make oath and say, that I have also carefully searched the books kept in the said Registry for entering the minutes of proceedings had in this Cause from and including the said first day of May, 1884, to the first day of December, 1884, and that no leave has been obtained by Her Majesty's Procurator General, or by any other person or persons whomsoever to intervene in this Cause,* and that no affidavit or affidavits, instruments, or other documents whatsoever, have been filed in this Cause by Her Majesty's Procurator General or any other persons whomsoever during such period, or at any other period during the dependence of this Cause, in opposition to the said *decree nisi* being made absolute.

Sworn at, &c.

NOTICE.

A. B. v. C. B. and E. F.

Notice is hereby given of application on behalf of Petitioner that the *decree nisi* for the Dissolution of the Marriage of the Petitioner and Respondent pronounced in this cause on the day of , 18 , be made absolute, the usual Affidavit in support of the application having been filed the day of , 18 .

J. G., Solicitor for the Petitioner.

Placed in List.—These are forwarded to the Court Registrar, and if by him found correct are placed in the Printed List for the following Motion day, when the Decree is made as before stated.

Service.—No service of the Affidavit or Notice is necessary, nor is it necessary for the Solicitor to attend at Court.

* If any intervention has occurred then must be added, "excepting the intervention of which was by order, or decree, dated dismissed."

An *Office copy* of the Decree Absolute under Seal can be obtained if desired. With the Decree Absolute the Cause terminates, and anybody is then at liberty to see the Pleadings and to order a copy of the Decree, of course paying the required fees.

APPEAL.

31 & 32 Vict., c. 77, sec. 3.—Either party dissatisfied with the final decision of the Court on any petition for dissolution or nullity of marriage may, within one calendar month after the pronouncing thereof, appeal therefrom to the House of Lords, and on the hearing of any such appeal the House of Lords may either dismiss the appeal or reverse the decree, or remit the case to be dealt with as the House of Lords shall direct: Provided always, that in suits for dissolution of marriage no Respondent or Co-Respondent, not appearing and defending the suit on the occasion of the *decree nisi* being made, shall have any right of appeal to the House of Lords against the decree when made absolute, unless the Court, upon application made at the time of the pronouncing of the decree absolute, shall see fit to permit an appeal.

44 & 45 Vict., c. 68, sec. 10.—No appeal from an order absolute for dissolution or nullity of marriage shall henceforth lie in favour of any party who, having had time and opportunity to appeal from the *decree nisi* on which such order may be founded, shall not have appealed therefrom.

MARRYING AGAIN.

31 & 32 Vict., c. 77, sec. 4, and sec. 57 of 21 Vict., c. 85, shall be read and construed with reference to the time for appealing as varied by this Act; and in cases where, under this Act, there shall be no right of appeal, the parties respectively shall be at liberty to marry again at any time after the pronouncing of the decree absolute. See 44 & 45 Vict., c. 68.

FEEs.

Searching Appearance Book	..	1	0
Searching Minutes .. ..	..	2	6
Filing Affidavit of Search .. ..	..	2	6
Filing Notice .. ..	..	2	6

If the date of the *decree nisi* is prior to 25th January, 1884, a further fee of 10s. is payable for drawing the decree.

COSTS ALLOWED TO SOLICITORS.

Separate Bills of Costs for Decrees Absolute are not received, a fixed sum being allowed to Solicitors in respect of such applications.

If the *decree nisi* was pronounced before 25th January, 1884, the sum allowed to the Solicitor is £2 13s. 10d. If the *decree nisi* was pronounced after the 25th January, 1884, as 10s. less would be paid on the application for the decree absolute, the allowance to the Solicitor is £2 3s. 10d.; and if the costs of the cause have been taxed, an order (if required) for payment of such sum will issue at once.

	£	s.	d.
Drawing Affidavit and Notice ..	0	7	2
Attending Swearing	0	6	8
Paid Commissioner	0	1	6
Attending Searching	0	6	8
Paid Searching Appearance Book ..	0	1	0
" Minutes	0	2	6
" Filing Affidavit	0	2	6
" Notice	0	2	6
Attending Court (though attendance unnecessary)	0	13	4
	2	3	10

OFFICE COPY UNDER SEAL.

	s.	d.
Copy	2	6
Certifying same	2	6
Sealing	5	0

MOTIONS & SUMMONSES.

Many applications heretofore made to the Court by motion can now be made by summons and the following would seem to be about the only cases in which it is necessary to move the Court.

Substituted Service of Citations or Orders requiring Personal Service *ex parte*. Dispensing with making the alleged adulterers Co-Respondents *ex parte*.

Custody of children. Maintenance. Attachment.

Injunction to restrain Respondent from visiting or annoying Petitioner, or from selling property, &c.

Confirming Registrar's Report as to Variation of Settlement, Maintenance, &c.

For leave to intervene.

New Trial.

To discharge Protection Order.

Appeal from Magistrate's Order for Judicial Separation.

When heard.—During the Sittings motions are heard by the Court every Tuesday, and in Vacation by the Registrars every other Wednesday.

Case.—The case should briefly set forth the proceedings in the Cause, as—

Petition filed day of

Appearance.

Answer.

And the present application, as—

Counsel will move on that, &c.

Filing.—The Case and other documents to be used at the hearing should be left at the Divorce Registry on the Wednesday, but certainly not later than 2 o'Clock on the Thursday preceding the Tuesday upon which it is intended to move the Court,

Affidavits and Notice.—Notice with Copy Affidavits (*if any*) should be delivered to the other side, *if necessary*, four clear days previously to the hearing. If no appearance has been entered no Notice need be filed or delivered. All the Papers filed in the Cause are sent with the Motion Papers to the Court Registrar.

Counter Affidavits.—These should be handed in at the hearing with the filing Fee pinned on. They are then referred to in the Order drawn by the Registrar and sent with the other Papers to the Registry, when they are filed. If not so handed in they will not be accepted at the Registry for filing without leave of the Registrar. Copies should be served on the other side as soon as possible, or the motion will be liable to be adjourned in order that Affidavits in answer may be filed.

Order.—The Order is entered by the Registrar in the Motion Book for the day and an Office Copy, if required, can be ordered on the Wednesday or Thursday following the hearing.

Service.—A plain Copy sufficient for Service if personal Service not required.

Adjourned.—If adjourned, a further Case is left at the Registry, stating shortly, that on the day of the Court was moved to direct, &c., and that the application was adjourned for further Affidavits, *or as the case may be*, and that on Counsel will renew the application. No Fee charged for the further case.

Affidavits.—With this must be filed any Affidavit or document to be used, and copies delivered with Notice to the other side, *as in the first instance*.

Counter Affidavits.—As before.

The original Case with all the Cause Papers filed are with the further Case forwarded to the Court Registrar.

FEES.

	£	s.	d.
Filing Case	0	10	0
Filing Notice, if necessary	0	2	6
Filing Affidavits, each	0	2	6

ALLOWED ON TAXATION.

	£	s.	d.
Drawing Case and Copy	0	10	0
Drawing Notice of motion, Copy and Service	0	4	0
Copy to file	0	1	0
Attending filing Case and Notice	0	6	8
Paid for Order and filing Case	0	10	0
Paid for filing Notice	0	2	6
Brief Copy Case and Notice	0	4	4
Attending Counsel with Case and Papers	0	3	4
Paid his Fee and Clerk	1	3	6
Attending Court when Order made	0	13	4
Attending Registry, bespeaking Office Copy	0	6	8
Paid for same, and collating Copy of same, and Service	0	6	0
Each Affidavit—			
Instructions for Affidavit	0	6	8
Drawing same, per folio	0	1	0
Engrossing same, per folio	0	0	4
Copy for Service, per folio	0	0	4
Brief Copy for Counsel, per folio	0	0	4
Attending Deponent to be sworn	0	6	8
Paid Commissioner	0	1	6
Paid Filing	0	2	6

SUMMONS.

A Summons may be taken out by any person in any matter or suit depending in the Court, unless by rule or practice a different mode of proceeding is required. Rule 160.

Drawing.—The Summons should be drawn in duplicate, and the day and hour when returnable inserted; one copy folded lengthwise and endorsed, and at the right hand bottom corner of the other copy the Fee stamps, 8s. should be affixed. Take both copies to the Divorce Registry. The endorsed copy is stamped with the Judge's signature and returned to the Solicitor; the other copy is retained in the Registry.

FORM OF SUMMONS.

Let the Petitioner or his Solicitor attend one of the Registrars at the Divorce Registry of the High Court of Justice at Somerset House, Strand, in the County of Middlesex, on Monday next the 1st day of December, 1884, at 12 of the clock in the afternoon, to show cause why the Respondent should not have fourteen days' further time to file his answer herein.

Dated the day of 18 .

Issued by E. F., of James Hannen.
Solicitor for the Petitioner. [Stamps, 8s.]

Service.—A copy of the signed Summons, with copies of affidavits or other documents to be used at the hearing, must be served on the party summoned one clear day at least before it is returnable, and before seven o'clock p.m.; on Saturdays, before two o'clock p.m.

Affidavits used on the hearing should, with the Fee Stamp, 2s. 6d., pinned on, be left with the Registrar, so that they can be referred to in the order and filed.

Consent.—If a consent is obtained, the signed Summons endorsed with the consent should be left with the Registrars' messengers. The order will be drawn in due course, and can be obtained at the Divorce Registry a day or two afterwards.

When Heard.—During the Sittings, Summonses are heard by a Registrar at Somerset House every Monday, at twelve o'clock, and by the Judge in his Chambers every Tuesday, at half-past ten. During Vacation, by a Registrar, every Wednesday, at half-past eleven, at Somerset House.

How Heard.—All Summonses can be heard by a Registrar, who will make such order as he shall think fit, or refer the matter to the Judge; but any party objecting to the order of the Registrar may appeal to the Judge to rescind or vary the same. *The signed Summons should always be produced at the Hearing.*

Adjourned Summonses.—When the Registrar on the Monday adjourns a Summons to the Judge, it is heard by him in his chambers the following morning; but to ensure this, the Solicitor should at once give notice of the adjournment to the Divorce Registry, so that the Summons shall be placed in the adjourned Summons Book, and all necessary papers sent to the Court.

Non-attendance.—If the party summoned does not attend at the time fixed for the hearing, the party issuing the Summons must wait half an hour from the appointed time, and then ask the Registrar to make an order on an *Affidavit of Service and Non-attendance*. After which fill up the following Affidavit (Forms may be obtained at the Divorce Registry); see that the Summons annexed to it is marked by the Commissioner, and take it to the Divorce Registry and have the Summons *with Registrar's note upon it* looked up. The Order may be applied for at the Divorce Registry a day or two afterwards.

I, G. T., of Solicitor for the Petitioner in this Cause, make Oath and say —

1. That I did on the day of in the year of our Lord one thousand eight hundred and before the hour of of the Clock in the evening serve in this with a true Copy of the Summons hereunto annexed (marked) by leaving the same at the of the said situate with there.
2. And I further say that I did attend the said Summons at the return thereof, that is to say on the day of 18 , at from the hour of of the Clock in the noon until half an hour after the said hour of of the Clock on that day but that the said did not nor did any person on h behalf attend to oppose an Order being made on the said Summons to my knowledge or belief.

Sworn at, &c.

The Solicitor on the other side attending can, after waiting half an hour, and no one appearing to support the Summons, ask the Registrar to mark his attendance on the Summons with his costs, 6s. 8d.

Withdrawn.—The Fees for the Order are returned.

Order made.—The Order is drawn and signed by the Registrar, and entered on the Minutes in the Cause, and can be obtained at the Divorce Registry the day after hearing.

Service.—A plain copy sufficient for Service.

COSTS ALLOWED TO SOLICITOR.

	£	s.	d.
Drawing Summons, with Copy for			
Court	0	5	0
Attending—issuing	0	6	8
Paid Fees—Summons .. 3	0		
„ Order .. 5	0		
	—		
	0	8	0
Copy and Service	0	3	6
Attending Hearing	0	6	8
„ for Order	0	6	8
Copy and Service of Order	0	3	6
	—	—	—
	2	0	0

If with Affidavit—

Instructions for Affidavit	0	6	8
(not allowed when made by the Solicitor)			
Drawing Affidavit, per folio ..	0	1	0
Engrossing Affidavit, per folio ..	0	0	4
Copy for Service, per folio	0	0	4
Service of same	0	2	6
Attending Swearing	0	6	8
Paid Commissioner	0	1	6
Filing	0	2	6

Attended by Counsel (if certified for)—

Instructions to Counsel	0	6	8
Brief Copy Affidavit, per folio ..	0	0	4
Attending Counsel	0	3	4
His Fee and Clerk	1	3	6
If with Affidavits	2	4	6

(Then the Attendance would be 6s. 8d.)

VACATION.

(13th August until 23rd October.)

Taxation of Costs.—The Registrars will not tax any Bill of Costs or proceed upon any Petition for Alimony, except under special circumstances to be stated in a written application addressed to them.

Summonses are heard by one of the Registrars at the Principal Probate Registry, Somerset House, at half-past 11 o'clock every Wednesday.

Motions are heard every other Wednesday at half-past 12 o'clock.

All Papers for Divorce Motions are to be left with the Chief Clerk of the Divorce Registry, before 2 o'clock on the preceding Saturday.

Office Hours.—From 13th August until 23rd October inclusive, the Offices of the Probate and Divorce Registries are open to the public on Saturdays at 10 o'clock a.m., and closed at 2 o'clock p.m., and on every other day of the week these Offices are opened at 11 o'clock a.m. and closed at 3 o'clock p.m.

COMMISSION.

EXAMINATION OF WITNESSES OUT OF JURISDICTION.

How obtained.—An Order for a Commission to examine witnesses, or either of the parties, out of the jurisdiction of the Court, is made by the Registrar on an Affidavit showing that the party to be examined is a material witness.

When issued.—A Commission can issue immediately the Citation has been served. Indeed, if the Citation is to be served abroad, the Commission would be allowed to issue at the time of filing the Petition, upon an Affidavit as to the materiality of the evidence, &c., but the Order would direct that the Commission be not acted upon until the Citation had been served.

Summons for.—If an appearance has been entered a Summons must be taken out to show cause why a Commission should not be issued, and the hearing of the Cause be stayed until its return.

Consent.—If a consent to the Summons is obtained, no Affidavit will be necessary. If no Appearance has been entered, it would be issued on an Affidavit without a Summons. The following is the usual form of Affidavit—

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR COMMISSION
TO EXAMINE WITNESSES ABROAD.**

[Usual heading.]

B. *v.* B.

[illegible]

1. I am the Solicitor for the Petitioner in this Cause.
2. The following witnesses, to wit [here set forth their names], reside at Paris in France, and are, as I am advised and believe, material and necessary witnesses to prove the contents of the Petition

filed in this Cause, and the Petitioner cannot in my judgment and belief safely proceed to the trial of this Cause without the evidence of such witnesses.

3. The taking of the evidence of such witnesses by Commission, instead of bringing them to this country to be examined at the trial of this Cause, would be a great saving of expense.

Sworn, &c.

J. T.

Wife's Costs.—Application can be made, *without Summons*, to the Registrar who settles the draft Commission to ascertain what is a sufficient sum to cover her expenses in issuing or joining in, or attending a commission, and an order will be made upon the husband to pay, or secure the same, within a fixed time.

Commission in Draft for Settlement.—Upon the Order being made the Solicitor will prepare the Commission in Draft to be settled by the Registrar.

Witnesses.—The name of one of the witnesses must be given.

Commissioner.—The name of the party proposed as Commissioner is also submitted for the Registrar's approval.

The Commission may be addressed to one or two parties, or to one person and his nominee.

Thus—To our Vice-Consul at New York, in the United States of America, or such person as he shall appoint to act in his stead under this Commission, Greeting.

Nominee of Commissioner.—In the event of his appointing anyone, the appointment, as follows, should accompany the Commission and be returned with it.

B. v. B.

Whereas a Commission for the examination of witnesses in this Cause having been issued out of this Honourable Court to me or to such person as I shall appoint to act in my

stead, now I hereby appoint E. F., of to take such
Commission in my stead, as aforesaid. G. L.,

British Vice-Consul, New York.

Foreign Office.—In case of the appointment of a Consul or Vice-Consul, application must be made to the Foreign Office here before the Commission issues, to ascertain whether the Consular Officer would be willing to act.

Copy Petition.—An office copy of the Petition under seal (and sometimes copies of the Pleadings), accompanies the Commission, and should be ordered when the Draft Commission is left at the Divorce Registry. As in other instances for expedition and convenience of the Solicitor, a copy made by the Solicitor is accepted, the same fees, however, being charged.

Draft Commission delivered.—The draft may be applied for at the Divorce Registry a day or two after it is left there, and if settled, a copy should be delivered to the other side.

Signed, Sealed, and Issued.—If no objection is raised within two clear days, the Commission is engrossed on parchment and left at the Divorce Registry, with the draft, and a *præcipe*, and a fee stamp of £1. The Commission and draft are then forwarded to the Registrar who settled the same, for his signature. The Commission, when signed by the Registrar, is (with the draft) sent to be sealed, and both can be obtained the following day on applying at the office of the Sealer.

COMMISSION OR REQUISITION FOR EXAMINATION OF WITNESSES.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to
[here set forth the name and proper description of the

Commissioner], Greeting. Whereas a certain Cause is now depending in the Probate, Divorce, and Admiralty Division of Our High Court of Justice between *A. B.*, Petitioner, and *C. B.*, Respondent, and *R. S.*, Co-Respondent, wherein the said *A. B.* has filed his Petition praying for a dissolution of his marriage with the said *C. B.* [*or otherwise as in the prayer of the Petition*]. And whereas by an Order made in the said Cause on the day of 18 on the application of the said *A. B.* it was ordered that a Commission [*or Requisition*] should issue under Seal of Our said Court for the examination of [*here insert name and address of one of the persons to be examined*] and others as witnesses to be produced on the part of the said *A. B.*, the Petitioner, in support of his said Petition (saving all just exceptions). Now know ye that We do by virtue of this Commission [*or Requisition*] to you directed, authorize [*or request*] you within thirty days after the receipt of this Commission [*or Requisition*] at a certain time and place to be by you appointed for that purpose with power of adjournment to such other time and place as to you shall seem convenient to cause the said witnesses to come before you and to administer to the said witnesses respectively an oath truly to answer such questions as shall be put to them touching the matters set forth in the said Petition (a true and authentic copy whereof sealed with the seal of Our said Court is hereunto annexed), and such oath being administered We do hereby authorize [*or request*] and empower you to take the examination of the said witnesses touching the matters set forth in the said Petition, and to reduce the said examination or cause the same to be reduced into writing. And that for the purpose aforesaid you do assume to yourself some notary public or other lawful scribe as and for your actuary in that behalf if to you it should seem meet and convenient so to do. And the said examination being so taken and reduced into writing

as aforesaid, and subscribed by you, We do require [*or request*] you forthwith to transmit the said examination, closely sealed up, to the Divorce Registry of Our said Court at Somerset House, Strand, in the County of Middlesex, England, together with these presents. And we do hereby give you full power and authority to do all such acts, matters, and things as may be necessary, lawful, and expedient for the due execution of this Our Commission [*or Requisition*].

Dated at London, the day of in the year
of Our Lord 18 , and in the year of Our reign.
Solicitor's name and address. (Signed) X. Y., Registrar.

Sent out by Solicitor.—The Solicitor will forward the Commission to his agent, or to some local Solicitor, or to the Commissioner, with all instructions he may deem requisite.

Evidence—How taken, and Commission returned.—The examination is taken down in writing by the Commissioner, or his appointed scribe, in narrative form—not question and answer. If any objections are taken, then the question and answer and objections are to be stated verbatim. All documents produced at the examination, with his certificate, and the Commission, are returned to the Divorce Registry (per Post) *by the Commissioner*.

APPOINTMENT OF SCRIBE.

B. v. B.

I do hereby appoint A. B., of as and for my
actuary, for the purpose of reducing to writing the examina-
tion of the witnesses to be taken by me, pursuant to the
Commission herein bearing date day of 18 .

Dated

L. M., Commissioner.

This is returned with the Commission.

Minute.—A Minute directing the filing of all the documents returned by the Commissioner is, *on their receipt*,

drawn by an official of the Divorce Registry, and signed by the Registrar who opened the envelope containing the said documents. The Commission, the depositions, and all documents forwarded by the Commissioner are then annexed to the Registrar's Minute.

Filing the Commission, &c.—The party issuing the Commission should apply at the Divorce Registry, to ascertain when the Commission is returned (no notice of such being given), and when returned should file the same.

Office Copies.—When this is done (and not before) either party can see the documents and order office copies of them.

Cause in List.—Whether the Cause is marked stayed, or not, in the list, the Commission and all documents accompanying it are sent to the Court immediately it is received at the Registry. So no notice is required to be given of its return.

FEES.

	£	s.	d.
Summons and Order	0	8	0
Filing Affidavit (if any) ..	0	2	6
Issuing Commission	1	0	0
Filing Registrar's Minute ..	0	3	0
„ Deposition, &c., annexed thereto	0	2	6

COSTS ALLOWED ON TAXATION.

	£	s.	d.
Summons	2	0	0
„ if with Affidavit ..	0	19	0
Drawing Commission in Draft and Copy, according to length			
Attending Registry with same to be settled by Registrar ..	0	6	8
Attending Ordering Copy Peti- tion under Seal	0	6	8

Paid for same, by length, but not less than.. ..	£	s.	d.
	0	10	0
Attending getting Commission Signed and Sealed and for Copy Petition	0	6	8
Engrossing same, according to length			
Paid Parchment	0	2	6
Paid Issuing Commission ..	1	0	0
Drawing Præcipe	0	0	0
Sending out Commission with full Instructions—or more, according to circumstances—	0	6	8
Paid Postage			
„ Commissioner (not ex- ceeding the sum paid) ..			
Paid Other Expenses			
„ Filing Minute and Deposi- tions	0	5	6
Attending Ordering Copy Depo- sitions	0	6	8
Attending for same when made	0	6	8
Paid—according to length ..			

COMMISSION.

Wife's Costs attending.—Estimated according to the number of witnesses to be examined, &c.

EXAMINING A WITNESS WITHIN JURISDICTION.

Affidavit.—For the examination of a witness within the Jurisdiction (no Appearance being entered in the Cause) an Order will be made by the Registrar on an Affidavit showing that the party to be examined is a material witness and unable (through illness or infirmity or leaving the country) to attend at the hearing.

Summons.—If an Appearance has been entered, a Summons must be issued to show cause why the witness should not be examined *voir dire* before some Examiner to be appointed by the Registrar.

Consent.—If a consent is obtained no Affidavit is necessary.

AFFIDAVIT AS TO NECESSITY OF EVIDENCE.

B. v. B.

I, A. J., of _____, Solicitor, make oath and say as follows:—

1. I am the Solicitor for W. B., the Petitioner in this Cause.
2. I am advised and believe that R. B., now of _____, in the County of _____, merchant, is a material and necessary witness to prove the contents of the Petition filed on behalf of the said W. B., in this Cause, and the said W. B. could not, in my judgment and belief, safely proceed to the trial or hearing of this Cause without the testimony of the said R. B.
3. I have been informed and verily believe that the said R. B. is now about to leave this country.

Sworn, &c.

A. J.

ORDER OF APPOINTMENT FOR EXAMINATION OF WITNESS
WITHIN THE JURISDICTION.

B. against B.

On reading the Affidavit of _____, sworn the day of _____ 18____, and on hearing the Solicitor for the _____ (or *if without Affidavit* by consent), I do Order that _____ witness on behalf of the said _____ and now within the jurisdiction of this Court may be

examined *viva voce* before as Examiner at such time and place as the said Examiner shall think fit, and cause to be notified to the parties four days at least before the time so appointed by him; and that the shall be at liberty to cross-examine the said witness , and that the said witness may be further examined before the said Examiner, if he shall think fit; And I further Order that it shall and may be lawful for the said Examiner, and he is hereby required to make, if need be, a special report touching the said examination hereby directed, and that the said examination and other proceedings had before him shall be returned to the Divorce Registry of this Court, at Somerset House, Strand, certified under his hand and seal on or before the day of 18 . And I further Order that either party may be at liberty to take Office copies of the said examination, and that the same may be read in evidence at the trial of this Cause, saving all just exceptions.

Dated the day of 18 .

Registrar.

How Taken and Returned.—The examination is taken down in writing by the Examiner, *in narrative form*—not question and answer. If any objections are taken, then the question and answer, with objections, are stated verbatim. The examination, with all documents produced, accompanied by his Certificate *and the order of appointment*, is returned to the Registry by the Examiner.

Minute.—A Minute directing the filing of the documents is then drawn by an Official of the Divorce Registry, which is signed by the Registrar who opened the envelope containing the examination. The order, the depositions, and all other documents forwarded by the Examiner are then annexed to the Registrar's Minute.

Filing the Examination.—The party issuing the order should apply at the Divorce Registry to ascertain when the

Examination is returned (no notice of such being given), and when returned should file the same.

Office Copies.—When this is done (and not before) either party can see the documents and order Office copies.

FEEs.

			s.	d.
Summons and Order	..	..	8	0
Filing Affidavit (if any)	..	..	2	6
„ Registrar's Minute	..	..	3	0
„ Depositions, &c., annexed				
thereto..	..	..	2	6

COSTS ALLOWED.

Same as Commission, so far as they apply.

Medical Fees.—The Petitioner's Solicitor will arrange with the Inspectors as to their Fees, generally from five to ten guineas each, with an additional Fee to the one attending on the hearing of the Cause.

Meeting at the Registry.—He will also fix the day for their appearing before the Registrar to be sworn, and for the Petitioner and Respondent to be identified in their presence. Notice of such appointment should be given at the Divorce Registry.

Oath and Minute.—The Petitioner's Solicitor then prepares the oath for the Medical Inspectors and minute of identification of the parties (Forms of which can be obtained at the Divorce Registry).

OATH TO MEDICAL INSPECTORS APPOINTED TO EXAMINE
PETITIONER AND RESPONDENT.

Jane G., otherwise B. against Thomas B.

H. S., of in the County of Middlesex, M.B.C.S.,
and J. B., of in the said County, M.D.; you are
produced as Inspectors in a Cause depending in the Probate,
Divorce, and Admiralty Division of the High Court of
Justice, entitled *Jane G.*, otherwise *B.*, against *Thomas B.*,
to examine the parts and organs of generation of *Jane G.*,
otherwise *B.*, the Petitioner in this Cause, and also of
Thomas B., the Respondent in this Cause:

You respectively swear that you will faithfully, and to the best of your skill, inspect the parts and organs of generation of the said *Jane G.*, otherwise *B.*, and *Thomas B.*, and make a just and true Report in writing, whether the said *Jane G.*, otherwise *B.*, the Petitioner is, or is not, a Virgin, and whether she hath, or hath not, any impediment on her part to prevent the consummation of marriage ; and whether such impediment, if any, can be relieved or removed

by art or skill. And also whether the said *Thomas B.*, the Respondent, is capable of performing the act of generation, and, if incapable, whether such his incapacity can be relieved or removed by art or skill; and that one of you shall deliver such Report under your hands, closely sealed up, to one of the Registrars of the said Division.

(Not required to be signed by the Inspectors.)

Sworn at the Divorce Registry, Somerset House, Strand, in the County of Middlesex, the 1st day of January, 1885.

Chas. J. Middleton, Registrar.

MINUTE ON MEDICAL INSPECTORS BEING SWORN,
AND OF IDENTIFICATION.

Jane G., otherwise *B.*, against *Thomas B.*

On the 1st day of January, 1885, before the undersigned Registrar of this Division of the Court :

Personally appeared H. S., of in the County of Middlesex, M.R.C.S., and J. B., of in the said County, M.D., who were respectively appointed by order herein, dated the 20th day of December, 1884, as Inspectors, to examine the parts and organs of generation of *Jane G.*, otherwise *B.*, the Petitioner in this Cause, and also of *Thomas B.*, the Respondent in this Cause; and to report in writing whether the said *Jane G.*, otherwise *B.*, the Petitioner is, or is not, a Virgin; and whether she hath, or hath not, any impediment on her part to prevent the consummation of marriage; and whether such impediment (if any) can, or cannot, be relieved or removed by art or skill; and also whether the said *Thomas B.*, the Respondent, is capable of performing the act of generation, and, if incapable, whether such his incapacity can, or cannot, be relieved or removed by art or skill—who were respectively duly sworn to inspect and report accordingly.

Then appeared personally the said *Jane G.*, otherwise *B.*, the Petitioner, who, in the presence of the said Inspectors, and of the said Registrar, and of the Solicitor for the Respondent, acknowledged herself to be the Petitioner or Party proceeding in this Cause.

Then appeared personally also the said *Thomas B.*, the Respondent, who, in the presence of the said Inspectors, and of the said Registrar, and of the Solicitor for the Petitioner, acknowledged himself to be the Respondent or Party proceeded against in this Cause.

Chas. J. Middleton, Registrar.

Attending at the Registry.—The respective Solicitors with their Parties and the Inspectors will attend before the Registrar on the day fixed.

Identification.—Each Party is identified separately so as to avoid a meeting, indeed it is not necessary that they should both attend at the same time, though of course it is more convenient and saves a second attendance of the Inspectors and Solicitors.

Oath and Examination.—The Registrar reads the oath to the Inspectors, they do not sign it, and each Party is then identified by the Solicitors in the presence of the Registrar and the Inspectors, and it only remains to arrange for the necessary examination. This can take place at the Registry, or at the house of one of the Inspectors, or at some Hotel in the neighbourhood.

Report.—After the examination the Inspectors make their Report, which is left by one of them with the Registrar. The Registrar on opening the Report signs a minute drawn in the Registry, the Report is then filed and either Party can see it and order Office Copy.

Out of London.—Should the Parties reside in the Country and it be more convenient for the examination to take place there, Local Inspectors will be selected by the

Registrar, and the Oath and Minute will be prepared by *the Solicitor* and sent to the nearest District Probate Registry, when the same formula will be observed, the Report of course being returned *by post* to the Divorce Registry by the District Registrar.

FEES.

	s.	d.
Filing Oath	2	6
„ Appointment	2	6
„ Report	2	6
Minute	3	0

COSTS ALLOWED ON TAXATION.

	s.	d.
Summons for appointment of		
Medical Inspectors	8	0
Copy and service	3	6
Attending summons; Order made..	6	8
Copy and service	3	6
Attending J.A., obtaining his consent		
to act	6	8
Attending D.B., do.	6	8
Writing Petitioner do.	3	6
Drawing and engrossing oath for		
Inspectors	6	8
Drawing and engrossing Registrar's		
Minute of identification	6	8
Attending Registry, obtaining ap-		
pointment for Inspectors to attend	6	8
Notice thereof to Inspectors, 3s. 6d.		
each	7	0
Attending meeting of Parties and		
Inspectors	13	4
Attending filing Report and ordering		
Copy	6	8
Paid for Copy	2	6
Paid filing Report	5	6
Paid Inspectors' Fees		

SUBSTITUTED SERVICE.

When and how Applied for.—When it is impossible to serve personally any Petition, Citation, Pleading, or Order necessary to be so served, application, by Motion, must be made to the Court to substitute some other mode of service. Rule 13.

Affidavit.—The case should be supported by Affidavit showing the efforts which may have been made to effect personal service, and, if possible, the Court should be informed of the name and address of any relative or friend with whom it might be likely that the absent party would communicate and through whom a knowledge of the Petition, Citation, Pleading, or Order might be transmitted.

Notice.—This is an *ex parte* application, and no notice is required to be served on any party who may have appeared.

Order.—The usual Order is as follows :—

[Service of this Order is not necessary unless required by the Party served.]

ORDER FOR SUBSTITUTED SERVICE OF CITATION.

Before the Right Honourable Sir James Hannen, Knight, the President, sitting at the Royal Courts of Justice, Strand, in the County of Middlesex.

On the 18th day of March, 1884.

Bean against Bean.

On reading the Statement filed on behalf of the Petitioner and Affidavit of the Petitioner and John Bennett, sworn the 14th day of March, 1884, and hearing Counsel thereon, it is ordered that Personal Service on the Respondent of the Citation issued against her in this Cause be dispensed with, and that the said Citation, together with a sealed copy of the Petition filed in this Cause, be personally served on

Mrs. Farrer, of _____, a sister of the Respondent, and that the said Citation, or an abstract thereof, to be settled by one of the Registrars of this Division of the Court, be advertised twice, at an interval of a week, in such newspapers as the said Registrar may direct.

An abstract of the Citation to be settled by the Registrar for advertisement is then left with the Citation, and a fee of 10s., at the Divorce Registry.

Usual Form of Abstract as follows :—

ABSTRACT CITATION.

To *John Bean*, late of _____, in the County of _____, Take notice that a Citation bearing date the 3rd day of August, 1884, has issued at the instance of *Rosa Bean*, of _____, in the County of _____, citing you to appear within eight days after publication hereof, and to answer the Petition filed by the said *Rosa Bean* praying for a Dissolution of Marriage, and such Citation contains an intimation that in default of your so doing the Court will proceed to hear the said Petition proved in due course of law and to pronounce sentence thereon, your absence notwithstanding, and a further intimation that for the purpose aforesaid, you are to attend in person or by your Solicitor at the Divorce Registry at Somerset House, Strand, in the County of Middlesex, and there to enter an appearance in a book provided for that purpose, without which you will not be allowed to address the Court in person or by Counsel at any stage of the proceedings in the Cause.

Solicitor's _____ Chas. J. Middleton, Registrar.

Name and Address.

To be advertised *twice* in the following newspapers at intervals of a week : *Times* and *Daily Telegraph*.

Forms obtained at the Registry.

The abstract settled may be obtained two or three days after it has been left. This should be taken care of, as it has ultimately to be filed with copies of the newspapers.

A copy of the abstract should be left at the office of the papers in which the Registrar has directed it to be advertised, and the original produced if required.

Advertisements to be Filed.—After the time for appearance has expired and no appearance entered, the advertisements, with the abstract, should be filed.

In filing the newspapers it is only necessary to bring in the sheet upon which the advertisement appears, of course leaving the name of the paper and date appearing. The advertisement should be lined round with ink to render it easily observable.

No Affidavit of Service Required.—Where the Order for Substituted Service merely directs the Citation to be advertised, an Affidavit of Service is not required to be filed, nor is any endorsement of Service on the Citation necessary, but if personal service on anybody had formed part of the Order for Substituted Service it should be set out in an Affidavit of Service. The endorsement on the Citation *in the latter case* should show fully how served.

Appearance Entered.—The Citation alone need be filed, and if the appearance is entered after say one advertisement has appeared, the Order need not be further carried out.

FEEs.

Case on Motion—as before.

	s.	d.
Abstract to Settle	10	0
„ and Advertisements Filed..	2	6
Affidavit and Citation Filed ..	5	0

COSTS ALLOWED.

Case on Motion, &c., as before.

(See Motion.)

	s.	d
Drawing Abstract Advertisement to settle	5	0
Attending getting same settled ..	6	8
Paid settling.. .. .	10	0
Making Copies Advertisements for Papers, each	1	4
Attending ordering Advertisements	6	8
Paid for same		
Attending filing Advertisements and Abstract	6	8
Paid	2	6

If personal service on any one ordered, same as service of "Citation," which see.

SUITS IN FORMÂ PAUPERIS.

How Commenced.—Before the Petition can be filed leave must be obtained to so prosecute the Suit.

How Obtained.—This is only to be obtained by application to the Registrar, supported by opinion of Counsel as to the grounds of proceeding being reasonable.

Case for Counsel.—Draw up a full statement of the facts and submit it to Counsel, who will endorse his opinion upon it. The case is then left, with the necessary affidavits in support, at the Divorce Registry for the approval and Order of the Registrar.

Affidavits in Support.—The Applicant must make an Affidavit stating fully his or her income or means of living, and that he or she is not worth £25, after payment of his or her just debts, save and except his or her wearing apparel, and in the case of *the Wife being the Applicant* she must further depose as to the income or means of living of the Husband, and if she has no knowledge of his whereabouts or mode of life she must state so. A further Affidavit, *annexing the case submitted to Counsel*, which can be made by the Applicant or by his or her Solicitor must state that “the case hereunto annexed marked A contains a full and true statement of all the material facts upon which I rely to obtain, &c.” The case is marked by the Commissioner before whom the Affidavit is sworn. Two Affidavits are not necessary, the above requirements can all be contained in an Affidavit made by the Applicant.

Approval.—The case and Affidavits left at the Divorce Registry may be called for two days afterwards, and if approved of by the Registrar the Order for leave to prosecute the Suit in *formâ pauperis* can be obtained and the Petition may be filed and Citation extracted.

2. That the case hereto annexed marked A contains a full and true statement of all the material facts upon which I rely to obtain a Dissolution of Marriage.
3. That I have no means of support save and except the proceeds derived from a small general shop, which produce me an income not exceeding 10s. per week.
4. That otherwise I am entirely without means, and am not worth £25 after payment of all my just debts save and except my wearing apparel.
5. That I know of my own knowledge that the said William King has no property or means whatever, and I am informed and believe that he is now out of employment.

Sarah King.

Sworn, &c.

Husband Petitioner.—The proceedings are analagous, only that he is not called upon to depose as to the means or income of the wife.

Counsel and Solicitor.—Neither Counsel nor Solicitor is assigned.

Costs.—A Solicitor acting for any person suing or defending in *formâ pauperis*, can file his Bill and enforce payment as in other cases.

Fees.—No Fees are charged on these Applications, nor upon any subsequent proceedings in the matter.

ALIMONY PENDENTE LITE.

When to Apply.—The wife, if *Petitioner*, can file her Petition for Alimony any time after the Citation has been served on the husband. Rule 81. If *Respondent*, she can file her Petition any time after having entered an Appearance. Rule 82. *The Petition* should be confined to a statement of the husband's means, and filed at the Divorce Registry. *It need not be signed.* No Affidavit in support is required.

FORM OF PETITION FOR ALIMONY.

To the Right Honourable the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice.

A. B. against *C. B.* and *E. F.*

The day of 18 .

The Petition of *C. B.*, the lawful wife of *A. B.*, sheweth,—

1. That the said *A. B.* does now carry on the business of a at , and derives therefrom the net annual income of £ .
2. That the said *A. B.* is now or lately was possessed of shares of the Railway Company, amounting in value to £ , and yielding a clear annual dividend of £ .
3. That the said *A. B.* is possessed of certain stock-in-trade in his said business of the value of £ .

[*And particulars of any other property he may possess.*]

Your Petitioner therefore humbly prays that your Lordship will be pleased to decree her such sum or sums of money by way of Alimony *pendente lite* [or permanent Alimony] as to your Lordship shall seem meet,

Service.—A plain copy is sufficient, and may be served on the Solicitor of the husband, or at the address given for service if he is acting in person. On the other hand if he has not appeared to the Citation he must be served *personally* with the Petition for Alimony, it frequently occurring that the husband having no defence to the charges in the main Petition may yet like to have a voice in the investigation of his income; and if such service cannot be effected, application must be made to the Court to dispense with service.

Answer.—The husband, *if Respondent*, must enter an Appearance before he can file an Answer to this Petition, but if such is entered as “*Appearance to Petition for Alimony*” he will not be entitled thereby to deal with any other question in the Cause.

Filing Answer.—The Answer must be made on oath by the husband and filed within eight days after delivery of the Petition.

Service.—Plain copy served on Solicitor.

Reply.—No reply is necessary unless the husband alleges that the wife is possessed of separate estate, in which case the Reply must be *on oath* and confined to a statement of her means and filed within eight days of the service of the Answer. *Plain copy served.* Where it is asserted in the Answer that the wife is being supported by the Co-Respondent it is treated as an allegation of being possessed of separate estate, and must be denied *by her Reply* before Alimony is allotted.

Rejoinder.—*No Rejoinder* by the husband, without leave, is allowed. Rule 87.

Appointment before Registrar.—As soon as an Answer is filed or the time for answering, eight days, has expired, or, if Reply is necessary, as soon as that is filed, the wife's Solicitor will proceed to obtain an appointment before one of the

Registrars and will enter in a book kept by the Registrars' Messengers a note as follows :—

B. v. B.

Application for appointment as to Alimony. 10s. deposit.

Solicitor's name and address.

In due course the following appointment will be sent:—

Mr. Registrar has appointed the day of
, 18 , at o'clock, to hear the Solicitors as to

Alimony.

N.B.—The party obtaining the appointment is to give the other parties to be heard at least one clear day's notice of the appointment.

No Appearance—Allotment, how made.—If the husband has not appeared in the Suit, and has been duly served with the Petition for Alimony, or *service dispensed with*, and has not entered an Appearance in respect thereto, the wife's Solicitor will have to support her Petition with some tangible evidence of the alleged income of the husband. The Registrar would not make an Order for payment on the mere *ipse dixit* of the wife as to the husband's income. Something must be proved to his satisfaction; *if Salary*, evidence from the Employer; *if Business*, as to its profit; *if Property*, as to its value, &c.

Husband Appearing and Filing Answer.—On this appointment the Solicitors of the parties will alone attend, and the Registrar is frequently able to make an Allotment of Alimony on the Petition and Answer; if not, he will either make an Order for further Answer, or for the attendance of the husband to be examined, or that his books of account be investigated; and if the Registrar's decision be objected to, application can be made to the Court by Summons to rescind or vary the same, &c. Rule 192.

Amount.—As a rule, the sum allotted is one fifth of the husband's ascertained or acknowledged income.

Consent.—The parties may even agree to an amount, and so obviate the Petition entirely, in which case a Summons is

taken out by the wife's Solicitor, to show cause why the husband should not pay her so much per week, or per month, or per quarter, as Alimony *pendente lite*, commencing from the Service of the Citation. A consent is endorsed by the husband's Solicitor, and the Registrar will make the Order in the terms of the Summons.

In all cases in which the Court shall make any decree or Order for Alimony, it may direct the same to be paid either to the wife herself or to any trustee on her behalf, to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do. 20 & 21 Vict., c. 85, sec. 24.

Trustee.—Payment is only ordered to be made to a Trustee on the authority of the wife, *in writing*, being filed.

Authority.—If the wife desires the Alimony to be paid to a Trustee, an authority, as follows, must be filed.

B. v. B.

“I hereby authorize and request that Mr. E. G., of
be appointed to receive from the Respondent in this
Cause, such Alimony *pendente lite* as may be allotted me by
this Court, and I desire that the Respondent be ordered to
pay such Alimony to him as a Trustee on my behalf. Dated
Witness—A. M. B., Petitioner.

Filing fee, 2s. 6d.

When filed.—This can be filed before the Order is made, but if any time afterwards the wife desires the Alimony to be so paid, the authority can be filed, and the Order, on the application of the Solicitor, would be varied by directing payment to the Trustee. *Notice of the alteration should be given to the other side.*

Service.—A plain copy of the Order on the husband's Solicitor is sufficient.

Enforcing payment.—Where necessary to enforce payment, a Writ of Fi. Fa., or Sequestration, or Elegit will be issued on

application at the Divorce Registry, upon an Affidavit of Service (*not personal service*) of the Order, and Affidavit of non-payment made by the party to whom the money was directed to be paid. Rule 203. But if a committal is desired, then the Alimony Order must be served on the husband *personally*.

Reduction or Increase.—If the husband's income increases the wife can ask, by *Petition*, for an increase of the Alimony allotted, and, so on the other hand the husband can *Petition* for a diminution of the amount by reason of his income having become smaller. Either application is subject to the same rules—as to answer, and reply, and investigation—as the *Petition for Alimony*.

When payment ceases.—Alimony *pendente lite* is payable from the service of the Citation until the *decree nisi* is made absolute. *Ellis v. Ellis*, 8 P. D., 188.

FEES.

				s.	d.
Filing Petition	..	..	..	2	6
„ Answer	..	..	..	2	6
„ Replies—each	..	..	..	2	6
Reference to Registrar—per hour..				10	0
Order	..	..	..	5	0

WIFE'S COSTS ALLOWED ON TAXATION.

				£	s.	d.
Instructions for	Petition	for				
Alimony	..	..	..	0	6	8
Drawing same..	..	..	..	1	0	0
Fair Copy	..	..	..	0	3	4
Attending Counsel to settle						
same	..	..	..	0	3	4
Paid his Fee and Clerk	..	..	..	1	3	6

	£	s.	d.
Attending Filing	0	6	8
Paid	0	2	6
Fair Copy for Service ..	0	3	4
Attending Serving	0	3	4
Perusing Answer	0	6	8
Attending Registry, entering Application for Appointment	0	6	8
Fair Copy Appointment and Service	0	4	0
Attending Registrar—Order made	0	13	4
Paid—Reference to Registrar	0	10	0
„ His Order	0	5	0
Attending Registry for Order	0	6	8
Fair Copy and Service ..	0	3	6

HUSBAND'S.

Perusing Petition for Alimony	0	6	8
Instructions for Answer ..	0	6	8
Drawing same.. .. .	1	0	0
Fair Copy	0	3	4
Attending Counsel to settle same	0	3	4
Paid his Fee and Clerk ..	1	3	6
Attending filing	0	6	8
Paid	0	2	6
Fair Copy for Service ..	0	3	4
Attending Serving	0	3	4
Attending Registrar—Order made	0	13	4
Perusing Order			
Attending Swearing	0	6	8
Paid Commissioner	0	1	6

PERMANENT ALIMONY.

This applies only to Suits for Judicial Separation.

How Applied for.—After the decree has been obtained a *Petition for Permanent Alimony* can be filed. For Form, &c., see “*Alimony pendente lite*.” Should *Alimony pendente lite* have been allotted, the Solicitor will only have to enter the Application in the book for Appointments kept by the Registrars’ Messengers and leave a Deposit Fee Stamp for 10s. The Appointment is sent in due course, and the remaining proceedings are similar to those attending the Application for *Alimony pendente lite*. *Ante*, page 98.

Notice.—Eight days’ notice of this Application is to be given to the husband’s Solicitor.

Amount.—The amount allotted is generally one-third of the husband’s ascertained or admitted income.

Payable.—From the date of the final decree.

Consent.—As in the case of *Alimony pendente lite* so with this. An amount may be agreed upon between the parties and a Summons issued to show cause why the husband should not pay to the wife permanent Alimony at and after the rate of £ per annum, to commence from the date of the final decree and to be payable weekly, monthly, or quarterly. The Order would be drawn in such terms.

Defended Cause.—In a defended Cause the Order for payment of permanent Alimony would not be made until the time for appealing against the *final decree* had expired.

Increase or Reduction.—Application can be made by either party, by Petition, according to the fluctuation of the husband’s income. Either application is subject to the same Rules—as to Answer, Reply, and investigation—as the Petition for Alimony.

Fees and Costs allowed similar to those in the case of “*Alimony pendente lite*.”

MAINTENANCE.

This differs from Permanent Alimony as it applies only to Suits for Dissolution of Marriage.

20 & 21 Vict., c. 85, sec. 32—

The Court may, if it shall think fit, on any such decree (for Dissolution of Marriage), order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it shall deem reasonable, &c.

29 & 30 Vict., c. 32, sec. 1—

(*Preamble*) And whereas it sometimes happens that a decree for a Dissolution of Marriage is obtained against a husband who has no property on which the payment of any gross or annual sum can be secured, but nevertheless he would be able to make a monthly or weekly payment during their joint lives: Be it therefore enacted, &c.

Sect. 1.—In every such Case (Dissolution of Marriage) it shall be lawful for the Court to make an order on the husband for payment to the wife during their joint lives of such monthly or weekly sums for her maintenance and support as the Court may think reasonable, &c.

How Applied for.—*The wife obtaining a decree nisi* may file her Petition for Maintenance any time after such decree has been pronounced. The Petition may even be filed after the decree has been made absolute, or within a month therefrom, and the time may be still further extended by leave of the Judge, to be obtained by Summons.

Appointment before Registrar.—When the Pleadings are completed, the wife's Solicitor will enter his application for an appointment in a book kept by Registrars' Messengers, and leave a deposit fee of 10s.

Report and Amount.—The Registrar, on this appointment, investigates the averments in the Pleadings—in a similar manner, and makes the same allowance, as in proceedings for Permanent Alimony—and makes his Report.

Filing Report.—This is then filed by the Applicant's Solicitor. *Filing Fee*, 2s. 6d.

Confirming Report.—Fourteen days after the Report is made application can be made to the Court on Motion to confirm such Report.

Consent.—If the parties can agree as to the amount an order would be made without a Petition being filed.

Where the Decree is against the Wife.—It sometimes occurs that the Court will direct, on pronouncing the *decree nisi* (or afterwards, on application being made by the wife on Motion), that the husband do secure to the wife some allowance, and refer it to the Registrar to fix the amount.

Reduction of Amount.—The husband becoming unable to make such payments as may have been directed may petition the Court to discharge or modify the order.

Increase of Amount.—No application can be made by the wife to increase the amount.

FEES.				s.	d.
Filing Petition	..	..	..	2	6
Reference to Registrar, including his					
Report, per hour	..	..	..	10	0
Filing Report	..	..	..	2	6

ALLOWED ON TAXATION.

Similar to Alimony *pendente lite* as far as applicable.

VARIATION OF SETTLEMENTS.

The Court after a final decree of Nullity or Dissolution of Marriage may inquire into the existence of settlements made on the parties whose marriage is the subject of the decree, and may make such orders with reference to the application of the whole or a portion of the property settled either for the benefit of the children of the marriage or of their respective parents as to the Court shall seem fit. 22 & 23 Vict., c. 61, sec. 5.

If there are no children.—The Court may exercise this power for the benefit of either of the parties. 41 Vict., c. 19, sec. 3.

How Made.—Applications to vary settlements must be made by Petition. Rule 95.

When.—Within one month from final decree, unless by leave of the Judge, to be applied for by Summons, the time is extended. A *Petition* is filed setting out shortly the conditions of the settlement and how it is desired that they should be varied. Rule 95.

Signed.—Should be signed by the Applicant, but in the event of the Applicant being abroad the Solicitor can apply to the Judge by Summons for leave to sign instead.

Affidavit, Deed.—No Affidavit in support is required, nor is the Deed referred to filed.

Service.—A certified copy of the *Petition* under seal is to be *personally served* on the husband or wife (as the case may be) and also on the Trustees and any person or persons who may have any legal or beneficial interest in the property respecting which the application is made.

Substituted Service.—If personal service cannot be effected application must be made to the Court *by Motion* to dispense with or direct some other mode of service.

Trustees.—The Trustees or other person served, not being a party in the Suit, must enter an Appearance before filing an Answer; need not be a separate Appearance for each Trustee, all may be included if represented by the same Solicitor.

Answer.—The parties served may within 14 days from date of service file an Answer *on oath*, a copy of which is to be delivered to the opposite party.

Reply.—This may be filed within 14 days from the filing of the Answer, and the same time is allowed for filing any further Pleading. Rule 100.

Appointment for Hearing.—When the Pleadings are completed the Solicitor filing the *Petition* will enter in a book kept by the Registrars' Messengers his application for appointment, with *deposit* fee 10s. (as in Alimony cases), and in due course an appointment will be sent, *of which he must forward a copy to any person entitled to be present at the hearing.*

Attending Registrar.—The Solicitors of all parties interested who have appeared will be heard on the first appointment, and if an adjournment is necessary the Registrar will direct what further evidence shall be given.

His Report.—The Registrar sets forth in a Report the result of his investigation and how he considers the settlement should be varied.

Filing Report.—This Report is filed by the Applicant, and either of the parties can order an office copy of it.

Confirming Report.—The Applicant will then within 14 days apply to the Court on Motion to confirm the Report or to refer it back to the Registrar for further investigation, and any of the parties can be heard on the Application.

Case and Notice.—Notice of the Application, with a short Statement, will be filed at the Divorce Registry on the Wednesday preceding the Motion day and served on the other parties.

Deeds.—If it is necessary for the Deed or Deeds to be brought into the Registry the originals should not be left, copies being sufficient, and these *should not be filed*, but simply left for the assistance of the Court.

Final Order.—When the Report is confirmed by the Court it is referred back to the Registrar, who will make an Order carrying out the terms of the Report or as may be directed by the Court.

Service.—An office copy of this Order is generally sufficient to be served on the Trustees and parties affected by it.

Costs.—These are costs in the Cause, and a Co-Respondent condemned in costs is liable for them.

FEEs.

			s.	d.
Filing Petition	..	..	2	6
Reference to Registrar, including his				
Report, per hour	..	..	10	0
Filing Report	..	..	2	6

COSTS ALLOWED ON TAXATION.

Similar to Alimony *pendente lite* as far as applicable.

CUSTODY OF CHILDREN AND ACCESS.

Power of Court to make Orders as to Custody of Children.

20 & 21 Vict., c. 85, sec. 35.—In any Suit or other proceeding for obtaining a Judicial Separation or a decree of Nullity of Marriage, and on any Petition for dissolving a marriage, the Court may from time to time, before making its final decree, make such interim orders, and may make such provision *in the final decree*, as it may deem just and proper with respect to the custody, maintenance, and education of the children the marriage of whose parents is the subject of such Suit or other proceeding, and may, if it shall think fit, direct proper proceedings to be taken for placing such children under the protection of the Court of Chancery.

Extended to "*After a Decree*," by 22 & 23 Vict., c 61, sec. 4.—The Court *after a final decree* of Judicial Separation, Nullity of Marriage, or Dissolution of Marriage, may upon application (by Petition) for this purpose make, from time to time, all such orders and provision with respect to the custody, maintenance, and education of the children, as might have been made by such final decree or by interim orders in case the proceedings for obtaining such decree were still pending.

Extended to suits for Restitution of Conjugal Rights by 47 & 48 Vict., c. 68, sec. 6, which see. *Ante*, page 9.

Part of Decree.—When the Court is to be asked at the hearing of a Suit to order that the Petitioner have the custody of the children of the marriage the custody should be *prayed for in the Petition, or Answer*, as the case may be. *Boddy v. Boddy and Grover*, 30 L. J., P. M. & A., 163.

Petition.—If no prayer for the custody of the children has been made in the Petition, a separate Petition for such custody may have to be filed and served.

Motion.—The husband or the wife can at any time after the Citation has been served or Appearance entered, as the case may be, apply to the Court, by Motion, for the custody of the children. This Application is supported by Affidavit, and notice, &c., given to the other side, as in other cases where the Court is moved.

Order.—The Order when made will direct that the children be not removed out of the jurisdiction of the Court. A copy of this *under the Judge's hand* is served.

Sixteen Years of Age.—The Court does not exercise jurisdiction over children beyond this age.

Access.—Application for access is made upon Summons to the Registrar, who will make such order as he thinks fit, unless the parties can agree as to the time and place where and under what conditions the children are to be visited, and either party dissatisfied with such order can appeal to the Court on Summons.

Fees and costs allowed according to the mode of Application, Motion, or Summons. Which see.

GUARDIANS.

MINORS OR INFANTS—LUNATICS—INVALIDS.

Petitioner, Respondent, or Intervener, being a minor, may elect one of his or her next-of-kin to act for him or her, and in the event of the next-of-kin renouncing the Guardianship, or the minor electing some person other than the next-of-kin, application is made *in case of the Petitioner* upon Affidavit (without summons) to the Registrar to assign a Guardian. In the latter case notice of the application is served on the next-of-kin.

Election.—This must be filed at the Registry before the Guardian can extract a Citation (if Petitioner), or enter an appearance (if Respondent or Intervener). A Co-Respondent being a minor is not required to have a Guardian to conduct his defence.

Petition.—This is signed by the Petitioner and by the Guardian, and the Affidavit is made by the (minor) Petitioner.

Title of Cause—Is A. B. by his Guardian C. D. v. G. B., or G. B. v. A. B. by his Guardian C. D.

Respondent or Intervener.—A Summons should be taken out to show cause why C. D. should not be appointed Guardian.

FORM OF ELECTION OF A GUARDIAN.

By a Petitioner.

Whereas a suit is about to be instituted in the Probate Divorce and Admiralty Division of our High Court of Justice on behalf of *A. B.* against *C. B.*, the wife of the said *A. B.*, and *E. F.* And whereas the said *A. B.* is now a minor of the age of years and upwards, but under the age of 21 years, and therefore by law incapable of acting in his own name.

Now I the said *A. B.* do hereby make choice and elect *G. H.*, my natural and lawful father and next-of-kin, to be my Curator or Guardian for the purpose of instituting the said suit, and for the purpose of carrying on and prosecuting the same until a final decree shall be given and pronounced therein, or until I shall attain the age of 21 years, and I hereby appoint *C. D.*, of &c., my Solicitor, to file or cause to be filed this my election for me in the Divorce Registry of the said Division.

In witness whereof I have hereunto set my hand and seal this day of in the year 188 .

A. B. (L.S.)

Signed, sealed, and delivered by the within-named *A. B.* in the presence of (*One attesting witness.*)

By a Respondent.

Whereas a Citation bearing date the day of 188 has issued under seal of the High Court of Justice (Probate Divorce and Admiralty Division), at the instance of

A. B., claiming to have been lawfully married to *C. B.*, citing the said *C. B.* to appear in the said Court, and then and there to make answer to a certain petition of the said *A. B.* filed in the Divorce Registry of the said Court. And whereas the said *C. B.* is now a minor of the age of years and upwards, but under the age of 21 years, and therefore by law incapable of acting in her own name.

Now I the said *C. B.* do hereby make choice of and elect *G. H.*, my natural and lawful father and next-of-kin, to be my Curator or Guardian for the purpose of entering an appearance for me and on my behalf in the said Court, and for the purpose of making answer for me to the said petition, and of defending me in the said cause, and to abide for me in judgment until a final decree shall be given and pronounced therein, or until I shall attain the age of 21 years, and I hereby appoint, &c. *A. B.* (L.S.)

(*One witness.*)

Attaining 21 years.—A Summons should be served on the other side, supported by the Affidavit of the party stating that he has attained 21 years, to show cause why the Guardian should not be dispensed with.

Lunatic.—A Committee duly appointed may act, but if no Committee has been appointed, application, supported by Affidavit as to the condition of the Party, is made to the Registrar to assign a Guardian, Notice by Summons being given to the opposite party if before the Court when the application is made. Rule 196.

Guardian dying during the Action.—A similar Summons, supported by Affidavit, showing that the Party is still a lunatic, or still a minor, is issued (upon applying) for another person to be appointed.

Invalid.—Application is by Summons supported by Affidavit showing the necessity for the appointment of a Guardian.

Service.—*On a minor* is a sufficient service. *On a lunatic*, must be upon the lunatic in the presence of the doctor of the establishment where he may be confined, or in the presence of the nurse or custodian if not under confinement; or if a committee has been appointed, service on the committee alone is sufficient.

FEES.

		s.	d.
Filing election of Guardian	..	2	6
„ Affidavit, if any	..	2	6
„ Renunciation, if any	..	2	6

COSTS ALLOWED ON TAXATION.

		s.	d.
Instructions for Election	.. ..	6	8
Drawing same and copy	.. ..	6	8
Attending Execution	.. ..	6	8
Obtaining consent of party elected			
Attending Registry, filing Election		6	8
If with Summons or Affidavit then additional accordingly.			

PROTECTION ORDER.

How obtained.—The application for a Protection Order, with the Affidavit of the wife, is left at the Divorce Registry for the approval of a Registrar, and on being approved by him the Order is drawn in a book kept at the Divorce Registry, of which the applicant can have an office Copy.

APPLICATION.

To the Right Honourable the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice.

Dated—

The application of *Alice Knight*, of 14, Oxford Road, Holloway, in the County of Middlesex, wife of Charles Knight, sheweth—

That on the 2nd day of May, 1850, she was lawfully married to the said Charles Knight, at the Parish Church, Manchester.

That she lived and cohabited with the said Charles Knight at Manchester, and other places, and had two children issue of the said marriage.

That on the 21st of May, 1881, the said Charles Knight without any reasonable cause deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her by her said husband, the applicant hath maintained herself by her own industry, and hath thereby acquired certain property, consisting of stock-in-trade of a Grocer, and money deposited in the Savings Bank.

Wherefore the said *Alice Knight* prays an Order for the protection of her earnings and property acquired since the said 21st day of May, 1881, from the said Charles Knight, and from all creditors and persons claiming under him.

Alice Knight.

Affidavit in support.—This is drawn much in the same form as the application, but it must contain a statement of her knowledge as to the husband's present address, because if he is residing within the jurisdiction of the Court, he must be served *personally* with a Summons to show cause why such Order should not be made.

If communication by letter has taken place since the desertion, such letters, or copies of them, should be brought into the Registry.

FEEs.

			s.	d.
Filing Application ..	..	..	2	6
Entering Order ..	..	..	5	0
Copy Order, under Seal ..	..	..	10	0

CHANGE OF SOLICITOR.

Notwithstanding Order 7, Rule 3, of the Supreme Court, 1883, which says "*A party suing or defending by a Solicitor shall be at liberty to change his Solicitor without an Order for that purpose upon notice of such change being filed,*" it is still necessary in *Divorce proceedings* for the incoming Solicitor to issue a Summons against the acting Solicitor to show cause why he should not be appointed in his stead. Form to be obtained at the Registry.

Husband's Solicitor.—The Order in this case directs that R. S. be appointed Solicitor for the Petitioner in the place of G. B., on payment of his costs, and that G. B. do file his bill of costs for taxation within a week.

How Taxed.—These costs are taxed as between Solicitor and client, but no further Order for payment is made.

Wife's Costs.—The Order is the same with regard to the payment of costs and filing the bill for taxation, but it further directs that at the taxation the Registrar shall certify what portion thereof is payable by the husband, and that the said G. B. do forthwith proceed to obtain and enforce an Order for payment of the costs which are payable by the husband, and on payment of the same to the said G. B. that the amount so paid shall be considered part of the costs certified to be payable to the said G. B. by the wife.

How Taxed.—The costs are taxed as between party and party and also as between Solicitor and client, the *Certificate* being given for the total amount allowed to the Solicitor. If an Order for payment is required the extra amount allowed as between Solicitor and client is deducted from the amount in the *Certificate* and Order given for the balance.

FEES.

			s.	d.
Summons and Order	..	..	8	0

COSTS ALLOWED ON TAXATION.

Outgoing Solicitor.

	s.	d.
Attending Summons.. ..	6	8
Perusing Order	1	0
Attending delivering Papers ..	6	8
Drawing Receipt for same	2	6

Incoming Solicitor.

Drawing Summons and Copy for		
Registrar	3	8
Attending Issuing	6	8
Paid Fee	8	0
Copy and Service	3	6
Attending Summons.. ..	6	8
„ for Order.. ..	6	8
„ Serving and Copy	3	6
„ Receiving Papers	6	8
„ Signing Receipt	3	6

In the following cases it is sufficient to file a Notice as suggested—not necessary to enter another Appearance.

Filing Fee 2s. 6d.

Solicitor Discontinuing to Act for Party.

Charles v. Charles. No. 97.

Take notice that I, the undersigned, no longer act as Solicitor herein for the above-named Respondent.

Dated L. K.,
To the Registrars Edgware Road,
of the Divorce Registry. Solicitor.

New Solicitor Representing Respondent or Petitioner.

Charles v. Charles. No. 97.

Take notice that since the filing of the Petition herein L. K., who acted as Solicitor for the Respondent, has ceased

so to act and has filed his Notice herein to that effect, and that I am now acting as Solicitor for the said Respondent.

T. B.,

To the Registrars 15, Cheapside, E.C.,
of the Divorce Registry. Solicitor.

Solicitor Discontinuing Business.

S. v. S.

Take notice that since the entering of Appearance to the Citation in this Suit by the firm of E. and H., the Solicitors for the Respondent, such firm has ceased, and their business has been transferred to the undersigned, who now acts as the Solicitor for the said Respondent.

Dated

A. B. C.,

To the Registrars Gray's Inn Square,
of the Divorce Registry. Solicitor.

Solicitor Dying during the Action.

N. v. N.

Take notice that I am now concerned as Solicitor in this Cause for the Petitioner in the place and stead of Mr. S. D., now deceased.

Dated

J. E.,

To the Registrars 39, King Street, E.C.,
of the Divorce Registry. Solicitor.

Respondent or Co-Respondent having entered an Appearance "*In Person*" desires to be represented by a Solicitor. *No further Appearance necessary.*

H. v. H.

Take notice that I am now concerned as Solicitor in this Cause for the Respondent.

S. T.,

To the Registrars 12, Tudor Street, E.C.,
of the Divorce Registry. Solicitor.

Abatement of Cause.

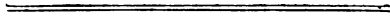
M. v. M.

Death of Petitioner or Respondent.—We hereby give you notice that W. M., the Petitioner herein, died on the 4th day of July instant, whereby this Cause has abated.

Dated	W. T. & Co.,
To the Registrars	1, Old Jewry, E.C.,
of the Divorce Registry.	Solicitors for Petitioner.

Death of Co-Respondent.

A Co-Respondent dying pending a Suit, Application should be made to the Court, *on Motion*, to strike his name out of the Cause.



TAXING BILLS OF COSTS.

(Rules 151 *et seq.*)

The Registrars tax only Bills of Costs—or those parts of bills referred to them—which concern matters before the Court; those relating to Deeds of Agreement, &c., are referred to the proper taxing master.

Bills referred to the Registrars from other Courts for taxation are not filed, simply left at the Divorce Registry and taken away after they are taxed.

Husband's Costs against Co-Respondent.—If Co-Respondent condemned in costs, Petitioner's Bill can be brought in to be taxed immediately after the *decree nisi* has been made, but the Order for payment will direct such costs *to be paid into Court*, pending the decree being made absolute.

Wife's Costs.—So also is this the case where the wife is Petitioner and succeeds, but a wife who is unsuccessful may, if the Court has given her her costs of and incidental to the hearing, proceed at once to obtain payment, after taxation thereof. See "Wife's Costs."

Drawing Bill.—Each column should be cast separately, and the amount placed at the bottom *in pencil*.

Summary of each column placed at the end of the Bill.

Total amount of the costs, and also two-thirds of that amount endorsed on the Bill.

Taxing fees, 1s. on every £2, *on two-thirds* of the total costs, is deposited with the Bill.

Filing fee, 2s. 6d.

If the amount so deposited is found to be in excess of the taxation fee, such excess will be returned on application at the Divorce Registry.

Filed.—The Bill is filed at the Divorce Registry, with the fees as above, and in due course the following appointment is sent by post.

Should the Bill be brought in by another Solicitor to tax, then an address should be endorsed on it where such appointment is to be sent.

APPOINTMENT TO TAX.

Mr. Registrar has appointed the day of , 18 , at o'clock, to tax the Bill of Costs filed in this Cause by

N.B.—The party obtaining the appointment is to give the other parties to be heard on taxation—with copy Bill—at least one clear day's notice of the appointment.

Early Appointment.—If through some special cause, such as the case being close upon hearing, or the party to pay going abroad, an early appointment is required, application can be made *by letter* to the Registrar, stating fully the reasons for urgency. The Registrar will require to be well satisfied with the reason given, as expedition in one case means delay in another; and the appointments are issued according to the date of the filing of the Bills.

Notice of Appointment.—Although it may be sufficient to give to the other side one day's notice where the appointment for special reasons is of short date, still, it would be better to give notice and deliver the Bill directly the appointment is received, so that the other side should have no occasion to ask for a postponement of taxation. This is the more important as the Taxing Registrar's appointments are made a week or ten days in advance, and any postponement may cause considerable delay.

Attending Taxing.—All receipts for witnesses' expenses, vouchers by Counsel, briefs, and documents necessary to be produced to the Registrar should be brought.

Affidavit of Increase.—Not necessary unless required by the Registrar, when it can be filed after the taxation, and the costs allowed added to the Bill.

Order for Payment.—So also where an Order becomes necessary, the costs allowed can be added to the amount in the certificate.

	s.	d.
Attending for Order	6	8
Paid.. ..	5	0
Copy and Service	3	6

Agreeing Bill.—After taxing, the Solicitors can take the taxed Bill into the waiting room and correct their copies, and agree the amount as taxed, returning the Bill to the Registrar.

Objections.—Either party objecting to any portion of the Bill as taxed, should set out item by item the parts objected to, and leave the same with the Registrar who taxed the Bill any time before the certificate for payment is signed. The Registrar will make an appointment for the consideration of the objections, when, if either party be dissatisfied, appeal to the Court can be made by Summons.

FEEs.

	s.	d.
Filing Bill	2	6
Deposit		

COSTS ALLOWED.

	s.	d.
Drawing Bill and 2 copies, per folio In undefended cases, only one copy being necessary, 8d. per folio.	1	0
Attending filing Bill	6	8
Paid filing	2	6
Copy and Service—Appointment to Tax	4	0
Attending taxing, according to time		
Attending agreeing amount, and for Certificate	6	8
Attending for Order, if required ..	6	8
Paid.. ..	5	0
Copy and Service	3	6
Affidavit of Increase, if required ..		
Drawing same, per folio	1	0
Attending Swearing	6	8
Paid Commissioner	1	6
Copy for other side, per folio ..	0	4

PAYING MONEY INTO COURT AND PAYMENT
OUT.

PAYING IN AND OUT.

Paying In.—An order having been made for the payment into Court of any sum of money, the Solicitor will fill up, *in duplicate*, the “Lodgment” Form to be obtained at the Registry.

Signed by the Registrar.—He will then take both Forms to the Registrar, one of which, signed by the Registrar, is returned to the Solicitor, the other is retained in the Registry.

Lodging the Money.—The Solicitor will leave the Form so signed with the money at the Bank of England, Law Courts Branch. *Cheques are accepted* as payment, but the receipt is not given until the same are cleared. Country cheques about four days afterwards.

Money Paid into Bank.—On receipt of the money with the *Lodgment Form* the Bank Certificate No. 3, duly signed, is sent to the *Common Law Division Pay Office* (65 Room, Royal Courts of Justice), and the particulars of lodgment entered in the *Fund Ledger* kept in that Department.

Notification of Lodgment is then forwarded by the Pay Office to the Registrar of the Divorce Registry who signed the Lodgment Order, when the *duplicate Form of Lodgment* left in the first instance is placed with the Cause papers and an entry made in the Cause Minutes of the sum paid in.

Notice of having paid the money in should be served on the opposite party, and if the Cause is in the List for hearing *and stayed* until such payment is made, notice should at once be given *at the Court* to Mr. Widdicombe, the Clerk of the Rules, that the order for payment into Court has been (*and when*) complied with.

Forms.—The following are the Forms referred to—

High Court of Justice.

Probate, Divorce, and Admiralty Division.

I. *Request for Authority for Lodgment.*

<i>Title of Cause or Matter</i> }	T. v. T.	(1885, No. 93.)
<i>Ledger Credit to which lodged</i> }	If same as Title of Cause write here the words "as above."	

To the Registrar.

I request authority for the lodgment of £50 at the Bank of England for the Ledger Credit above specified; such lodgment being for * the Costs and Expenses of the Respondent of the hearing or trial of the Cause.

(Signature) R. S.

II. *Authority for Lodgment.*

To the Agent of the Bank of England (Law Courts Branch).

Please receive the above-stated sum, and place it to the account of the Paymaster-General for and on behalf of the Supreme Court of Judicature.

(Signature) Chas. J. Middleton, Registrar.

III. *Bank Certificate of Receipt.*

To the Assistant Paymaster-General.

Bank of England, 1st January, 1885.

The above-stated sum has been this day received.

For the Governor and Company
of the Bank of England.

(Signature) G. L.

* State here such particulars as may be required.

If the money is not paid in under an order the Solicitor must get this Lodgment Form stamped at No. 6 Room with a shilling impressed stamp before leaving it at the Bank.

Probate, Divorce, and Admiralty Division.

Bank of England (Law Courts Branch), 1st January, 1885.

Received of R. S., for the credit of the Paymaster-General, for and on behalf of the Supreme Court of Judicature, the sum of Fifty Pounds.

Direction No. For the Governor and Company
of the Bank of England.

£ G. L.

If paid by cheque this Receipt must be called for after the cheque is cleared.

Notification of Lodgment.

To the Registrar, Divorce Registry.

Pay Office, Royal Courts of Justice, 2nd January, 1885.

It is hereby notified that on the 1st day of January, 1885, the sum of £50 was lodged by R. S. to the account of the Paymaster-General for and on behalf of the Supreme Court of Judicature, for the ledger credit hereunder mentioned being for T. v. T. (ledger credit)

(Signature) W. A.

No Fees are charged.

Search.—The notification of lodgment is placed in a book kept by the Registrars and can be searched, but as this search is only of value when the notification has been received, the better plan is to search at the Pay Office. For this a Search Form must be obtained from "The Form Room, No. 6, Royal Courts," which bears a shilling impressed stamp. This is taken to the Pay Office, Room 65, and the search is made. The Form is retained at the Pay Office, but a Certificate is given to the Solicitor, "Money not in Court," or "Money paid in," and is stamped by the official stamp of the Department.

COSTS ALLOWED ON TAXATION.

	s.	d.
Attending Registry with Request for		
Lodgment	6	8
Attending Paymaster-General		
Lodging Money	6	8
Notice of same to other Side ..	4	0

PAYING OUT.

How Applied for.—The Registrar before he signs the authority for the payment of any sum must be satisfied that—whether by consent, decree, certificate, or otherwise—the party applying is entitled to the money.

Authority for Payment.—Upon this being done, fill up the following Form in duplicate and take them to the Registrar for his signature. One copy is retained in the Registry, the other is given back to the Solicitor, who will leave it at the *Common Law Division Pay Office* (Room 65, Royal Courts of Justice).

Cheque.—A cheque for the amount will be ready one clear day after the Authority for Payment is so lodged.

Identification of Party.—The party to receive the money being properly identified,

Authority for Payment.

High Court of Justice.

Probate and Divorce Division.

*Title of Cause }
or Matter }*

T. v. T.

Ledger Credit.—If same as Title of Cause write here the words “as above.”

Date—10th January, 1885.

It is ordered that the payment specified below be made by the Paymaster-General out of the money standing in his books to the Ledger Credit above mentioned.

Name of person to whom or on whose authority the money is to be paid (Christian Name to precede surname)	Particulars of payment	Amount to be paid		
Name of Party, or Solicitor, or of Person authorized by the Party.	Leave this blank as the requirement does not apply to Probate and Divorce.	30	0	0

Total amount in words—Thirty Pounds.

(Signature) Chas. J. Middleton, Registrar.

In the case of a person being authorized by the party to receive the money, the following "Authority" must be left with this.

Probate, Divorce, and Admiralty Division.

T. v. T.

I authorize my Solicitor, Mr. R. S., to receive out of Court the sum of £30 paid in herein on the 1st day of January, 1885.

E. T., the above-named Petitioner.

Witness

Address

Occupation

To the

No Fees are charged.

COSTS ALLOWED ON TAXATION.

	s.	d.
Attending Registry with Authority for Payment and getting same Signed	6	8
Attending at Paymaster-General's and Lodging same	6	8
Attending do. for Cheque	6	8

PARTICULARS—DISCOVERY—INTERROGATORIES.

APPLICATION IN EACH INSTANCE IS BY SUMMONS.

Particulars.—An Order will be made for particulars where the charges set forth in the Petition or Answer are not sufficiently specific, to enable the party accused to meet or reply to them.

When to be applied for.—If the charges are in the Petition, then *before filing the Answer*; if in the Answer, then *before filing Reply*.

Order.—If made, directs that the within seven days do furnish to the further and better particulars of the times and places when and where the acts of mentioned in the paragraph of were committed, and that the said within the same time do file an Affidavit, and furnish to the a copy thereof, that no further or better particulars can be given.

Further particulars.—Application for is made by Summons, but the Court will not make an Order for further particulars *except under very special circumstances*; the Affidavit filed stating that no better particulars can be given. Leave may be obtained (if considered necessary) to interrogate.

FEES.

	s.	d.
Affidavit and Particulars in one document	2	6
If separate documents—each ..	2	6

COSTS ALLOWED ON TAXATION.

Unless under special circumstances, no Costs are allowed to the party ordered to give particulars.

To Party obtaining particulars.—Summons, which see—

	s.	d.
Perusing Particulars	2	0
„ Affidavit	1	0

DISCOVERY AND INSPECTION.

Application by Summons.—The Order directs, that within days after service, the Petitioner do file a full and sufficient Affidavit, stating whether he has or has had in his possession or power, and (if any) what documents relating to the matters in question in the Cause, and within days after filing such Affidavit, produce to the Respondent or his Solicitor, such documents as are in his possession; and that the Respondent or his Solicitor may be at liberty to inspect and peruse the documents, and take copies of them.

Affidavit and documents may be in one document, or the Affidavit may be separate from the Schedule. Fees, if in one document, 2s. 6d.; if in separate documents, 2s. 6d. each.

FORM OF AFFIDAVIT AS TO DOCUMENTS.

[*Usual heading.*]

B. v. B.

I, A. B., of make oath and say as follows—

1. I have in my possession or power the documents relating to the matters in question in this Cause set forth in the 1st and 2nd parts of the Schedule herein.
2. I object to produce the said documents set forth in the 2nd part of the said Schedule.
3. I object to produce the said documents, on the ground that they consist of communications between myself and my Solicitor, made since the commencement of this Cause; also of communications between my said Solicitor and other persons who are, or may be proposed witnesses in this Cause; and also of the papers and documents relating to the proceedings in

this Cause, and that all such communications, papers, and documents, are privileged.

4. To the best of my knowledge, information, and belief, I have not now and never had in my possession, custody, or power; in the possession, custody, or power of my Solicitor, any documents relating to the matters in question, other than the documents set forth in the said Schedule.

The Schedule above referred to—

Part I.—Originals.

- | | | |
|------------------|---------|--------------------|
| 1. Letter from | to | 1 December, 1884. |
| 2. Telegram from | to | 5 „ 1884. |
| | Copies. | |
| 3. Letter from | to | 1 September, 1884. |

Part II.—Originals.

- | | | |
|----------------|-----------------|--------------------|
| 1. Letter from | to | 10 December, 1884. |
| | With enclosure. | |
| | Copies. | |
| 2. Letter from | to | Un-dated. |
| 3. The like | to | Monday, un-dated. |

Sworn at, &c.

A. B.

Where it becomes a question of dispute as to certain documents being privileged, the Court may be asked to look at them and determine.

FILING FEES.

		s.	d.
Affidavit and Documents	.. ..	2	6
If separate Documents—each	.. ..	2	6

COSTS ALLOWED ON TAXATION.

Similar to those for “Affidavit”—which see.

INTERROGATORIES.

Leave to deliver Interrogatories is obtained by Summons.

Form of—1. Did not, &c. 2. Has not, &c., and should be confined to matters in question in the Cause.

Answer is on oath.

FILING FEES.

	s.	d.
Each set of Interrogatories ..	2	6

COSTS ALLOWED.

	s.	d.
Summons—which see		
Drawing same—per folio	1	0
Copy thereof to be delivered and filed—per folio	0	4

Answer to.

Instructions for Answer	6	8
Perusing Interrogatories, 4d. per folio		
Drawing Answer, including copy to file—per folio	1	4
Copy and Service	3	6

WRITS.

FI. FA., SEQUESTRATION, ELEGIT.

In default of payment of any sum of money (for Costs, or Alimony, or Damages) ordered by the Court to be paid to any person, a Writ of Fi. Fa., Sequestration, or Elegit, may be issued.

How Obtained.—Upon the Solicitor filing at the Divorce Registry an Affidavit of service of the order (not personal) with the order annexed and marked by the Commissioner, and an Affidavit of non-payment *made by the party to whom the money was directed to be paid*, either Writ will be issued.

Writ.—The Solicitor fills up the Form of Writ, which may be obtained at the Divorce Registry or of any Law Stationer.

Costs Allowed.—The Solicitor will add to the amount of debt in the Writ the costs according to the following scale—as far as they are applicable to the case.

Præcipe.—A Præcipe with a 5s. Fee Stamp is left when the Writ is sealed and issued.

FEES.

				s.	d.
Affidavits—each	..	..	..	2	6
Issuing Writ..	..	..	..	5	0

COSTS ALLOWED.

To be added to the amount of the Writ.

				s.	d.
Service of Order	..	..	..	2	6
(If served at a distance of more than two miles from the office of the Solicitor serving same—for each mile beyond the first two, 1s.)					
Where served through Country Agent	..	..	..	7	0

	<i>s.</i>	<i>d.</i>	<i>s.</i>	<i>d.</i>
Affidavit of Service of Order—				
Drawing, if five folios or under	6	8		
(Above five folios, 1s. 4d. per folio)				
Attending Swearing	6	8		
Paid Oath and Marking Exhibit	2	6		
Preparing Exhibit	1	0		
Paid Filing	2	6		
	—		19	4

Affidavit of Non-payment—				
Drawing, if five folios or under	6	8		
(Above five folios, 1s. 4d. per folio)				
Attending Swearing	6	8		
Paid Oath	1	6		
Paid Filing	2	6		
	—		17	4

Writ—				
Solicitor's Fee	7	0		
(If more than four folios, for each folio 1s. 4d.)				
Sealing	5	0		
Parchment	2	6		
	—		14	6
Attending for Warrant	3	4		
Paid 2s. 6d. to	7	0		
Attending Instructing Officer .	3	4		
	—		13	8

Writ of Fi. Fa.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

Between *A. K.*, Petitioner, and *J. K.*, Respondent.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, To the Sheriff of Surrey, Greeting, We command you, that of

the goods and chattels of *J. K.*, of Lavender Hill, Kingston-on-Thames, in your bailiwick, you cause to be made the sum of Twenty-two pounds thirteen shillings and four pence for certain arrears of Alimony *pendente lite*, in which the said *J. K.* was lately before us in Our High Court of Justice, in a certain Cause there depending, wherein the said *A. K.* is the Petitioner and the said *J. K.* is the Respondent, and by an Order of Our said Court, bearing date the 1st day of *June*, 1884, ordered to be paid by the said *J. K.* to the said *A. K.*, *and which costs have been taxed and allowed by one of the Registrars of the Registry of Our said Court at the said sum of as appears by the Certificate of the said Registrar, dated the day of 188 :* And that of the goods and chattels of the said in your bailiwick, you further cause to be made interest on the said sum of £ , at the rate of Four pounds per centum per annum, from the day of 188 , and that you have that money and interest before Us in Our said Court immediately after the execution hereof to be paid to the said *A. K.* in pursuance of the said Order: And in what manner you shall have executed this Our Writ make appear to Us in Our said Court, immediately after the execution thereof: And have there then this Writ.

Witness, The Right Honourable Sir James Hannen, Knight, at Our High Court of Justice, the 1st day of *September* in the year of Our Lord 1884.

L.S.

Chas. J. Middleton, Registrar.

Levy £22 13s. 4d. and £ for costs of Execution; and also Interest on £ at £4 per centum per annum, from the day of 188 , until payment; besides Sheriff's Poundage, Officer's Fees, Costs of Levying, and all other legal incidental expenses.

* These words are struck through when the order is for *Alimony* and in like manner the words *as to Alimony* when the order is for *Costs*.

This Writ was issued by *C. J.*, of 2, Staple Inn, in the County of Middlesex, Solicitor, Agent for *L. F.*, of May Bank, Kingston-on-Thames, Solicitor for the Petitioner, who resides at Lavender Hill, Kingston-on-Thames.

The Respondent is a cabinet maker, and resides at Lavender Hill, Kingston-on-Thames, in your bailiwick.

Endorsement by the Sheriff.—The within-named Respondent hath not any goods or chattels in my bailiwick whereof I can cause to be made the sums of money hereon endorsed to be levied or any part thereof.

S. B., Sheriff.

Writ—Elegit.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

Between *Hannah Wild*, Petitioner, and

Joshua Wild, Respondent.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of Worcestershire, Greeting.

Whereas, lately in our High Court of Justice in a certain Cause there depending, wherein *Hannah Wild* is Petitioner, and *Joshua Wild* is Respondent, by an Order of our said Court, made in the said Cause, and bearing date the 17th day of *June*, 1884, it was ordered that *Joshua Wild* should pay unto *Hannah Wild* the sum of £66 13s. 4d. per annum, from the first day of *March*, 1883, to be payable monthly; and whereas there is now due and payable to the said *Hannah Wild* under the said Order, the sum of £72 4s. 5d.

And afterwards the said *Hannah Wild* came into our said Court and according to the statute in such case made and provided chose to be delivered to her all the goods and chattels of the said *Joshua Wild*, in your bailiwick, except his oxen and beasts of the plough, and also all such lands,

tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold or customary tenure in your bailiwick as the said *Joshua Wild* or any one in trust for him, was seized or possessed of on the 17th day of *June* in the year of our Lord, 1884, or at any time afterwards or over which the said *Joshua Wild* on the said 17th day of *June*, 1884, or at any time afterwards had any disposing power which he might without the assent of any other person exercise for his own benefit to hold to her the said goods and chattels as her proper goods and chattels, and to hold the said lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof to her and to her assigns until the said sum of £72 4s. 5d. shall have been levied.

Therefore we Command you that without delay you cause to be delivered to the said *Hannah Wild* by a reasonable price and extent all the goods and chattels of the said *Joshua Wild* in your bailiwick, except his oxen and beasts of the plough, and also all such lands and tenements, rectories, tithes, rents and hereditaments, including lands and hereditaments of copyhold or customary tenure in your bailiwick as the said *Joshua Wild* or any person or persons in trust for him was or were seized or possessed of on the said 17th day of *June*, 1884, or at any time afterwards or over which the said *Joshua Wild* on the said 17th day of *June*, 1884, or at any time afterwards had any disposing power which he might without the assent of any other person, exercise for his own benefit to hold the said goods and chattels to the said *Hannah Wild* as her proper goods and chattels and also to hold the said lands, tenements, rectories, tithes, rents and hereditaments respectively, according to the nature and tenure thereof to her and to her assigns until the said sum of £72 4s. 5d. shall have been levied. And in what manner you shall have executed this our writ make appear to us in

our Court aforesaid, immediately after the execution thereof, under your seals and the seals of those by whose oath you shall make the said extent and appraisement. And have there then this writ.

Witness, The Right Honourable Sir James Hannen, Knight, at Our High Court of Justice, Great Britain, the day of , 1884.

L.S.

Edward F. Jenner, Registrar.

Levy £72 4s. 5d. and £ for costs of execution, besides sheriffs' poundage, officers' fees, costs of levying and all other legal incidental expenses.

This Writ was issued by T. S., of 71, Bedford Row, Middlesex, agent for I. B., of Birmingham, Solicitor for the Petitioner, who resides at 39, Brook Street, Birmingham.

The Respondent is a tailor, and resides at 39, Brook Street, Birmingham, in your bailiwick.

Writ of Sequestration.

Between *B.* and *B.*

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to *R. Adams*, of widow, *T. Adams*, of , *A. Brown*, of , and *J. Sims*, of , Greeting; Whereas lately in the Divorce Division of Our High Court of Justice in a certain action wherein *A. B.* is Petitioner, and *T. B.* is Respondent, by an Order of Our said Court made in the said action and bearing date the day of 188 it was ordered that the said *T. B.* should pay to the Solicitor of the Petitioner the sum of £23 7s. 5d. Know ye therefore, that we, in confidence of your prudence and fidelity, have given, and by these presents do give to you, or any three or two of you, full power and authority to enter upon all the messuages, lands, tenements, and real estate whatsoever of the said *T. B.*, and to collect, receive, and

sequester into your hands not only all the rents and profits of his said messuages, lands, tenements, and real estate, but also all his goods chattels and personal estates whatsoever ; And therefore We command you, any three or two of you, that you do, at certain proper and convenient days and hours, go to and enter upon all the messuages, lands, tenements, and real estates of the said *T. B.*, and that you do collect, take, and get into your hands not only the rents and profits of his said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same under sequestration in your hands until the said *T. B.* shall clear his contempt, and Our said Court make other order to the contrary.

Witness, The Right Honourable Sir James Hannen,
Knight, at our High Court of Justice, the day
of 188 .

L.S.

Chas. J. Middleton, Registrar.

Levy £23 7s. 5d. and £ for Costs of Execution
and Sequestration ; also Interest on £23 7s. 5d. at £4 per
centum per Annum, from the 14th day of *April*, 188 ,
until payment ; besides Sheriff's Poundage, Officers' Fees,
Costs of Levying, and all other legal incidental expenses.

This Writ was issued by C. W., of Solicitor for
the Petitioner.

The Respondent is a baker, and resides in Brighton, in
your bailiwick.

COMMITTAL ORDER.

COURT OF BANKRUPTCY.

For Non-payment of Costs or Alimony, &c., as Ordered.—Application may be made by Summons to the Court of Bankruptcy (or if the party does not reside within the jurisdiction of the Court of Bankruptcy then—if preferred—to the County Court of the district wherein he does reside) for a Committal Order, supported by an Affidavit of Service (*which must be personal*) and *proof of means*. The application is in the first instance upon a *Judgment Summons*.

How Applied for.—At the Stamp and Form Department of the Bankruptcy Court, 34, Lincoln's Inn Fields, can be obtained the requisite Forms.

Forms.—These are : Application for Judgment Summons or Request (A 1) for the first Summons, and three Forms of Summons (A 4). Fill up the Request and the three Forms of Summons, and take them to the Registrar in Chambers—*Bankruptcy Court*—generally Room No. 20, where they will be signed, sealed, and issued, a day being appointed for the hearing.

How Filed.—The original Summons, with an adhesive Stamp of 3s. stuck on to it, is with the Request filed there. The other two, also signed and sealed, are taken away.

Service.—One of these is *personally* served on the Defendant, the other (*should the Defendant not appear at the hearing*) is annexed to an Affidavit of Service and marked by the Commissioner.

Time of Issuing and Service.—The Summons must be *issued* ten clear days and *served* five clear days before the day upon which it is made returnable.

How Heard.—This Summons is heard by the Registrar.

Means.—The Summons must be supported by an Affidavit as to the means of the Defendant—or by oral

evidence should he appear at the hearing—proving to the satisfaction of the Registrar that he is able to discharge the debt by instalments or otherwise.

Non-attendance.—The Defendant failing to attend at the hearing, the Registrar—*on being satisfied as to his means*—will make an order that the Defendant do pay by instalments at so much per week or per month, or in such other manner as may be justified by the evidence produced, upon an Affidavit of Service (personal) of the Summons, which is annexed to the Affidavit and marked by the Commissioner, being filed. Filing Fee, 2s. 6d.

Party attending can be examined on oath, as to his means, before the Registrar, who will then make such order as to payment by instalments, or otherwise, as he may see fit. If sufficient means be not proved no order is made.

Service of Order.—If an order is made it is *drawn up by the Plaintiff* and served upon the Defendant *personally* if it was made in his absence, or if he was present or represented by his Solicitor service by post will do.

FEES.

	s.	d.
Issuing Summons and for Order 3s. and 5	0	
Filing Affidavit, if necessary ..	2	6

COSTS ALLOWED ON THIS SUMMONS.

	£	s.	d.
On Issuing	1	1	0
Hearing.. . .	0	10	6

If no order is made no costs are allowed.

Referred to Judge.—If the Registrar is unable, from the evidence as to means, to make any order, the Summons is not referred to the Judge, but if so satisfied and an order is made to pay by instalments, or otherwise, and the Defendant

fails to comply with that order, then on the next Summons the Registrar will refer the matter to the Judge.

COSTS THEN ALLOWED.

	s.	d.
An additional	6	8
With Expenses out of pocket		

Failing to Pay the Instalments.—In the event of the Registrar making an order that the Debtor do pay by instalments, or otherwise, and he fails to comply with the order, application will be made by Request (A 9), as before, for a “Judgment Summons (A 10), Non-payment by Instalments.”

How Obtained.—The Request and three Forms of Summons will be obtained from the Stamp and Form Department, as before, and the proceeding, as to the issuing and service of the Summons, and Fees, is exactly similar.

Referred to the Judge.—If on return of the second Summons the Registrar is satisfied that the Defendant has had the means to comply with the order and has failed to do so, he refers the matter to the Judge for committal.

Order of Committal.—If upon the hearing the Judge makes an order the Defendant is usually committed to prison for six weeks.

Commitment.—The Solicitor will then obtain, from the Stamp and Form Department, two Forms of “*Order of Commitment, A 5.*”—These, when filled up, are signed by the Registrar and sealed—one copy with a Fee Stamp of 5s. affixed to it is filed, the other is returned to the Solicitor, who will place it in the hands of a *Tipstaff of the High Court* to execute. The Order remains in force one year from the date thereof.

Sec. 5 of the Debtor’s Act, 1869, under which these judgments are made, does not authorize imprisonment for any longer period than six weeks, but this imprisonment does not cancel the debt.

FEES.

Issuing Summons and for Order ..	s.	d.
	8	0
Affidavit of Service, if required ..	2	6

COSTS ALLOWED.

	£	s.	d.
On Issue of Summons	1	1	0
Hearing before the Registrar ..	0	10	6
Affidavit of Service, if required	0	5	0

Before the Judge—according to circumstances.

Jurisdiction.—The London Court of Bankruptcy has jurisdiction *all over the country in respect of High Court Judgments and Orders*, but if a Summons is issued in London against a Defendant residing outside the Bankruptcy District, the Plaintiff has to pay the Defendant's expenses to London (as an ordinary witness attending a trial), and such payment will not be allowed in the costs, as the Plaintiff may issue his Summons in the County Court where the Defendant resides. The London Court does not issue Summonses on Judgments of County Courts within the London Bankruptcy District—except as regards the City of London Court, *when the Defendant resides outside the jurisdiction of that Court*—nor can such County Courts issue Summonses on High Court Judgments or Orders.

Bankruptcy Act, 46 & 47 Viet., c. 52, sec. 96.—The London Bankruptcy District shall, for the purposes of this Act, comprise the City of London, and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of any County Court described as a Metropolitan County Court, in the list contained in the Third Schedule.

Third Schedule.—The following County Courts of Middlesex:—Bloomsbury, Bow, Brompton, Clerkenwell, Lambeth, Marylebone, Shoreditch, Southwark, Westminster, and Whitechapel.

ATTACHMENT.

Attachment.—Application can be made to the Court (of this Division) by motion for an Attachment for Contempt of Court, in not obeying any direct Order of the Court, such as—not paying into the Registry any sum of money ordered to be paid in, or not finding security as directed; or for non-compliance with or disobedience of any Order of the Court *other than orders for payment of Alimony or Costs, &c., directed to be paid to some person.*

Personal Service of Order—Affidavit.—In this case the application is supported by an Affidavit of Service of the Order (which must have been personal).

Search.—An Affidavit of Search showing that the Order has not been complied with, must also be filed.

Notice.—Notice of the application must also be served upon the party, and an Affidavit of Service of such Notice filed.

Order made.—If the application is granted, it is invariably directed that the Writ do not issue for a week or a fortnight, so as to enable the offending party to purge his contempt by complying with the Order, and further that the Writ be not then delivered out unless an Affidavit be filed showing that the party had not complied with the Order.

Writ issued.—On the Registrar being satisfied that the Order of the Court for the attachment has been complied with, the Writ in the following form is drawn in the Registry and issued.

A *Præcipe* with a Fee Stamp of 5s. is filed.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

E. G., v. F. G.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the

Faith, To the Sheriff of Greeting, We command
 you to attach so as to have him before us
 in this Division of our High Court of Justice, there to
 answer to us as well touching a contempt which he it is
 alleged hath committed against us, as also such other matters
 as shall be then and there laid to his charge, and further to
 perform and abide such order as our said Court shall make
 in this behalf, and hereof fail not, and bring this writ with
 you.

Witness, The Right Honourable Sir James Hannen,
 Knight, at Our High Court of Justice, the day
 of 18 .

L.S.

Chas. J. Middleton, Registrar.

This Writ was issued by of agent
 for of Solicitor for the , who
 reside at .

The Respondent is a and resides at in
 your bailiwick.

This Writ is issued by Order of Court, dated 5th
 August, 1884, whereby the said *F. G.* was pronounced by
 the Court to be contumacious and in contempt, for non-
 compliance with an Order made in this Cause on the 22nd
 July, 1884, whereby the said *F. G.* was ordered, &c.

NEW TRIAL—RE-HEARING.

New Trial.—This applies to cases heard by the Court with a jury.

Re-hearing.—Applies to cases heard before the Court itself.

When to be applied for.—Within 14 days from the hearing or trial, if the Court be then sitting, or on the first Motion day afterwards when the Court is sitting, unless leave for the *extension of such time* is obtained from the Court *by Motion*.

How applied for.—*By Motion.* — Leave at the Divorce Registry a Case setting out shortly that the Cause was heard on , and that application is made for a New Trial or Re-hearing on the grounds, &c.

Notice.—Notice of this application may be given to the other side.

Fees and costs allowed, *as far as they are applicable*, same as “Motions.”

Appeal.—Either party dissatisfied with the decision of the Judge in granting or refusing any application for a new trial or re-hearing, may within 14 days after the pronouncing thereof *appeal to Her Majesty's Court of Appeal*. See 23 & 24 Vict., c. 144, sec. 2.

Application to Court of Appeal.—Leave at the Divorce Registry an office copy of the Order appealed from, with two Notices of Appeal.

NOTICE.

Take notice that the Petitioner appeals from the Order made in this Cause on the day of , by the Right Honourable Sir James Hannen, Knight, President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, rejecting the application for a Rule *nisi* for a new trial (or re-hearing).

Dated—

D. C., Solicitor for the Petitioner.

Application granted.—If the Court of Appeal should grant the application the Cause would be remitted to the Divorce Division for new trial or re-hearing.

Entry of Appeal.—A book is kept at the Divorce Registry, in which every appeal is entered, and a copy of such entry is forwarded to the clerk of the High Court of Justice having charge of the lists of appeal.

Appeal Department, Royal Courts.—For further proceedings, see *infra*, page 150.

FEEs.

			£	s.	d.
Entering the Appeal	..	..	2	0	0
For the Judgment	..	..	1	0	0
Filing Notice	..	..	0	2	6

No Fee is charged for the duplicate Notice.

APPEALS.

Before the Judicature Acts of 1873 and 1875 came into operation all decisions of the Judge Ordinary were subject to appeal to the *Full Court* of the Court for Divorce and Matrimonial Causes, *with the exception of Appeals from Decrees refusing or granting Dissolutions or Nullity of Marriage, or Declarations of Legitimacy*, which lay to the House of Lords. The reason of this distinction was that from the establishment of the Divorce Court until the year 1860, *Decrees of the latter character were only made by the Full Court*. In this year an Act of Parliament (23 & 24 Vict., c. 144) was passed which gave the Judge Ordinary, *sitting alone*, the power to exercise *the same jurisdiction* in these cases as had hitherto only belonged to *the Full Court*. It was also provided that the Appeal from the Judge Ordinary, when exercising the new powers under this Act, should lie to *the same tribunal as Appeals from the Full Court had hitherto done*, in reference to Dissolutions and Nullity of Marriage,—*namely, the House of Lords*.

The Full Court continued to exist until 1881, when it was virtually abolished by 44 & 45 Vict., c. 68. The 9th Section of that Act provides that all Appeals which might be brought to the *Full Court*, shall henceforth be brought to the *Court of Appeal*.

As regards Appeals from Decrees granting or refusing Dissolutions or Nullity of Marriage or Declarations of Legitimacy, they now lie, in the first instance, to the Court of Appeal and thence to the House of Lords (*Cleaver v. Cleaver*, 9, L.R., Appeal Cases). It may be useful here to show the way by which this has come to pass.

By the 19th Section of the Supreme Court of Judicature Act, 1873, Appeals from any Judgment of the High Court, with certain exceptions not necessary to mention here, lay to the Court of Appeal, and by the *20th Section it was provided

* The operation of this section was afterwards postponed until November, 1876.

that *no Appeal* should be brought from *any Judgment or Order either of the Court of Appeal or the High Court* to the *House of Lords*. In the year 1876, however, the Appellate Jurisdiction Act (39 & 40 Vict., c. 59) was passed, which restored, to a limited extent, the Appellate Jurisdiction which the Act before recited had taken away *from the House of Lords*. Under this Act a right was given to Appeal to the House of Lords from any Order or Judgment of the Court of Appeal. This general right of Appeal was subsequently curtailed as far as it related to Divorce and Matrimonial Causes, by the 9th section of 44 & 45 Vic., cap. 68 (1881), which enacts that the decisions of the Court of Appeal shall be *final, except* where the decision is upon the grant or refusal of a Decree for Dissolution or Nullity of Marriage, or Declaration of Legitimacy, or is upon a question of law on which the Court of Appeal *gives leave to appeal*.

Before passing from this Act it may be well to point out another important provision made by the 10th section, which is that no appeal from "*an order absolute*" shall lie in favour of a party who having had the time and opportunity for so doing has not appealed from the *decree nisi*.

Until the judgment of the House of Lords in the case of *Cleaver v. Cleaver*, quoted above, it seemed doubtful whether any appeal lay from a *decree absolute* to the Court of Appeal in a case where one had already been brought from the *decree nisi* to that Court: but in the case referred to it was decided that, having appealed from the *decree nisi*, the Appellant was entitled to appeal from the *decree absolute*.

Time—Court of Appeal.—The procedure and practice in proceedings for Divorce or other Matrimonial Causes are expressly excepted from the Rules of the Supreme Court (Order 68, Rule 1); while the present Divorce Rules contain no directions which apply to the Court of Appeal; it is

therefore difficult to indicate the Rules which govern the question of *time* as to Appeals.

It seems reasonable, however, to assume that in all cases where the decision appealed from is one which would have been brought to the Full Court, the appellate functions of which now vest in the Court of Appeal, the time is the same as it was in the case of an appeal to the former tribunal, namely, *within three months, with the exception* of those granting or refusing *New Trials* or *Re-hearing* which, under the old practice, was 14 days.

With regard to decisions granting Decrees of Dissolution or Nullity of Marriage, it seems intended by the 10th Section of 44 & 45 Vict., c. 68, that an appeal may be brought from the *decree nisi* to the Court of Appeal at any time before it is made *absolute*. But as to Appeals from a decision refusing a Petition for Dissolution or Nullity of Marriage, or from a decree absolute (where one lies), it can only be pointed out that under the old procedure the time was *within one month* from the Final Decision of the Court to the House of Lords, but there is no judicial authority for saying that Appeals which now lie in the first instance to an intermediate Court of Appeal, must be brought to that Court within the same time as they were—under 31 & 32 Vict., c. 77, sec. 3—brought direct to the House of Lords, *i.e., one month*.

Time—House of Lords.—Appeals, whether from *decrees nisi* or *absolute* for Dissolution or Nullity of Marriage, or Declarations of Legitimacy, or upon questions of law upon which leave has been given to appeal, must be made within one month from the decision of the Court of Appeal, if the House is then sitting, or within 14 days after the House next sits (44 & 45 Vict., c. 68, sec. 9).

Application to Court of Appeal.—Leave at the Divorce Registry copy of the Order appealed from, with two Notices as directed, ante, page 145.

Application to the House of Lords—By Petition.—The mode of proceeding is governed by the Standing Orders of the House of Lords, to be ascertained at Parliament Office, House of Lords.

Notice of Appeal, Royal Courts.

The Notice of Appeal sent to the Clerk of the Lists of Appeal, *Royal Courts*, is filed by him and entered in books called "*Appeal Books*" kept by him.

Appeal from Interlocutory Order.—If the Appeal is from an Interlocutory Order, it is entered in a separate Chancery List (*a different part of the same Book*) and heard in its turn according to the date of entry. These cases are taken by the Court of Appeal (No. 2) every Wednesday.

From Final Decree.—If the Appeal is from a Final Decree, it is entered in the "*Chancery General Appeal List*" (*the same Book, but different part*), and heard in its turn according to date.

Copies of Pleadings for the Court.—The Solicitor supplies the Court with Notice of the Application, and Copy of Order or Decree appealed from, also the pleadings, when necessary, *in triplicate* (these are left with the Clerks of the Lords Justices, *Royal Courts*).

Search.—The Books containing the entries of the various Appeals are open to Public Inspection at Room 136, *Royal Courts*, and parties can search them at all times, and so ascertain *by comparison with the Daily List and the cases entered before them*, or by direct enquiry, when their case is likely to be heard.

No Fee for searching.

No notice sent of Case being in Paper.

Decision.—If the Registrar of the Division from which the Appeal emanates does not attend at the Hearing, the Chancery Registrar takes a note of the decision and sends it to such Division.

Fees.—See ante, page 146.

RULES AND REGULATIONS

Made under the Provisions of 20 & 21 Vict., cap. 85 ;
23 & 24 Vict., cap. 144 ; 32 & 33 Vict., cap. 62 ;
38 & 39 Vict., cap. 77.

RULES AND REGULATIONS, 26TH DECEMBER, 1865.

All rules and regulations heretofore made and issued for Her Majesty's Court for Divorce and Matrimonial Causes shall be revoked on and after the 11th day of January, 1866, except so far as concerns any matters or things done in accordance with them prior to the said day.

The following Rules and Regulations shall take effect in Her Majesty's Court for Divorce and Matrimonial Causes on and after the 11th day of January, 1866.

Petition.

1. Proceedings before the Court for Divorce and Matrimonial Causes shall be commenced by filing a petition.

2. Every petition shall be accompanied by an affidavit made by the Petitioner, verifying the facts of which he or she has personal cognizance, and deposing as to belief in the truth of the other facts alleged in the petition, and such affidavits shall be filed with the petition. See also Rule 175.

3. In cases where the Petitioner is seeking a decree of nullity of marriage, or of judicial separation, or of dissolution of marriage, or a decree in a suit of jactitation of marriage, the Petitioner's affidavit, filed with his or her petition, shall further state that no collusion or connivance exists between the Petitioner and the other party to the marriage or alleged marriage.

Co-Respondents.

4. Upon a husband filing a petition for dissolution of marriage on the ground of adultery the alleged adulterers shall be made Co-Respondents in the cause, unless the Judge Ordinary shall otherwise direct.

5. Application for such direction is to be made to the Judge Ordinary on motion founded on affidavit.

6. If the names of the alleged adulterers or either of them should be unknown to the Petitioner at the time of filing his petition, the same must be supplied as soon as known, and application must be made forthwith to one of the Registrars to amend the petition by inserting such name therein, and the Registrar to whom the application is made shall give his directions as to such amendment, and such further directions as he may think fit as to service of the amended petition.

7. The term "Respondent" where the same is hereinafter used shall include all Co-Respondents so far as the same is applicable to them.

Citation.

8. Every Petitioner who files a petition and affidavit shall forthwith extract a citation, under seal of the Court, for service on each Respondent in the cause.

9. Every citation shall be written or printed on parchment, and the party extracting the same, or his or her proctor, solicitor, or attorney, shall take it, together with a præcipe, to the Registry, and there deposit the præcipe and get the citation signed and sealed. The address given in the præcipe must be within three miles of the General Post Office.

Service.

10. Citations are to be served personally when that can be done.

11. Service of a citation shall be effected by personally delivering a true copy of the citation to the party cited, and producing the original, if required.

12. To every person served with a citation shall be delivered, together with the copy of the citation, a certified copy of the petition, under seal of the Court.

13. In cases where personal service cannot be effected, application may be made by motion to the Judge Ordinary, or to the Registrars in his absence, to substitute some other mode of service.

14. After service has been effected, the citation, with a certificate of service endorsed thereon, shall be forthwith returned into and filed in the Registry.

15. When it is ordered that a citation shall be advertised, the newspapers containing the advertisements are to be filed in the Registry with the citation.

16. The above rules, so far as they relate to the service of citations, are to apply to the service of all other instruments requiring personal service.

17. Before a Petitioner can proceed, after having extracted a citation, an appearance must have been entered by or on behalf of the Respondents, or it must be shown by affidavit, filed in the Registry, that they have been duly cited, and have not appeared.

18. An affidavit of service of a citation must be substantially in the form given, page 29 *et seq.*, and the citation referred to in the affidavit must be annexed to such affidavit, and marked by the person before whom the same is sworn.

Appearance.

19. All appearances to citations are to be entered in the Registry in a book provided for that purpose.

20. An appearance may be entered at any time before a proceeding has been taken in default, or afterwards, as

herein-after directed, or by leave of the Judge Ordinary, or of the Registrars in his absence, to be applied for by motion founded on affidavit. See also Rule 185.

21. Every entry of an appearance shall be accompanied by an address, within three miles of the General Post Office.

22. If a party cited wishes to raise any question as to the jurisdiction of the Court, he or she must enter an appearance under protest, and within eight days file in the Registry his or her act on petition in extension of such protest, and on the same day deliver a copy thereof to the Petitioner. After the entry of an absolute appearance to the citation a party cited cannot raise any objection as to jurisdiction. See Rules from 56 to 61 as to proceedings on act on Petition.

Interveners.

23. Application for leave to intervene in any cause must be made to the Judge Ordinary by motion, supported by affidavit.

24. Every party intervening must join in the proceedings at the stage in which he finds them, unless it is otherwise ordered by the Judge Ordinary.

Suits in formâ Pauperis.

25. Any person desirous of prosecuting a suit in *formâ pauperis* is to lay a case before counsel, and obtain an opinion that he or she has reasonable grounds for proceeding.

26. No person shall be admitted to prosecute a suit in *formâ pauperis* without the order of the Judge Ordinary; and to obtain such order the case laid before counsel and his opinion thereon, with an affidavit of the party or of his or her proctor, solicitor, or attorney, that the said case contains a full and true statement of all the material facts, to the best of his or her knowledge and belief, and an affidavit of the

party applying as to his or her income or means of living, and that he or she is not worth £25, after payment of his or her just debts, save and except his or her wearing apparel, shall be produced at the time such application is made. See also Rules 208 to 211.

27. Where a husband admitted to sue as a pauper neglects to proceed in a cause, he may be called upon by summons to show cause why he should not pay costs, though he has not been dispaupered, and why all further proceedings should not be stayed until such costs be paid.

Answer.

28. Each Respondent who has entered an appearance may within 21 days after service of citation on him or her file in the Registry an answer to the petition. See also Rule 186.

29. Each Respondent shall on the day he or she files an answer, deliver a copy thereof to the Petitioner, or to his or her proctor, solicitor, or attorney.

30. Every answer which contains matter other than a simple denial of the facts stated in the petition, shall be accompanied by an affidavit made by the Respondent, verifying such other or additional matter, so far as he or she has personal cognizance thereof, and deposing as to his or her belief in the truth of the rest of such other or additional matter, and such affidavit shall be filed with the answer.

31. In cases involving a decree of nullity of marriage or of judicial separation, or of dissolution of marriage, or a decree in a suit of jactitation of marriage, the Respondent who is husband or wife of the Petitioner shall, in the affidavit filed with the answer, further state that there is not any collusion or connivance between the Deponent and the Petitioner.

Further Pleadings.

32. Within fourteen days from the filing and delivery of the answer the Petitioner may file a reply thereto, and the same period shall be allowed for filing any further pleading by way of rejoinder, or any subsequent pleading.

33. A copy of every reply and subsequent pleading shall on the day the same is filed be delivered to the opposite parties, or to their proctor, solicitor, or attorney.

General Rules as to pleadings.

34. Either party desiring to alter or amend any pleading must apply by motion to the Court for permission to do so, unless the alteration or amendment be merely verbal, or in the nature of a clerical error, in which case it may be made by order of the Judge Ordinary, or of one of the Registrars in his absence, obtained on summons. See also Rules 181 to 184 and Rule 187.

35. When a petition, answer, or other pleading has been ordered to be altered or amended, the time for filing and delivering a copy of the next pleading shall be reckoned from the time of the order having been complied with.

36. A copy of every pleading showing the alterations and amendments made therein shall be delivered to the opposite parties on the day such alterations and amendments are made in the pleadings filed in the Registry; and the opposite parties, if they have already pleaded in answer thereto, shall be at liberty to amend such answer within four days, or such further time as may be allowed for the purpose.

37. If either party in the cause fail to file or deliver a copy of the answer, reply, or other pleading, or to alter or amend the same, or to deliver a copy of any altered or amended pleading, within the time allowed for the purpose, the party to whom the copy of such answer, reply, or other

pleading, or altered or amended pleading, ought to have been delivered, shall not be bound to receive it, and such answer, reply, or other pleading shall not be filed, or be treated or considered as having been filed, or be altered or amended, unless by order of the Judge Ordinary, or of one of the Registrars, to be obtained on summons. The expense of obtaining such order shall fall on the party applying for it, unless the Judge Ordinary or Registrar shall otherwise direct.

38. Applications for further particulars of matters pleaded are to be made to the Judge Ordinary, or to one of the Registrars in his absence, by summons, and not by motion. See also Rules 181 to 184.

Service of Pleadings, &c.

39. It shall be sufficient to leave all pleadings and other instruments, personal service of which is not expressly required by these rules and regulations, at the respective addresses furnished by or on behalf of the several parties to the cause. See also Rule 114.

Mode of Trial.

40. When the pleadings on being concluded have raised any questions of fact, the Petitioner, within 14 days from the filing of the last pleading, or at the expiration of that time, on the next day appointed for hearing motions in this Court, or in case the Petitioner should fail to do so at such time, either of the Respondents on whose behalf such questions have been raised, may apply to the Judge Ordinary by motion to direct the truth of such questions of fact to be tried by a special or common jury. See also Rule 205.

Questions of Fact for the Jury.

41. Whenever the Judge Ordinary directs the issues of fact in a cause to be tried by a jury, the questions of fact raised by the pleadings are to be briefly stated in writing by the Petitioner, and settled by one of the Registrars.

42. Should the Petitioner fail to prepare and deposit the questions for settlement in the Registry within 14 days after the Judge Ordinary has directed the mode of trial, either of the Respondents on whose behalf such questions have been raised shall be at liberty to do so.

43. After the questions have been settled by the Registrar, the party who has deposited the same shall deliver a copy thereof as settled to each of the other parties to be heard on the trial of the cause, and either of such parties shall be at liberty to apply to the Judge Ordinary, by summons within eight days, or at the expiration of that time on the next day appointed for hearing summonses in this Court, to alter or amend the same, and his decision shall be final.

Setting down the Cause for Trial or Hearing.

44. In cases to be tried by a jury, the Petitioner, after the expiration of eight days from the delivery of copies of the questions for the jury to the opposite parties, or from alteration or amendment of the same, in pursuance of the order of the Judge Ordinary, shall file such questions as finally settled in the Registry, and at the same time set down the cause as ready for trial, and on the same day give notice of his having done so to each party for whom an appearance has been entered. See also Rule 206.

45. In cases to be heard without a jury, the Petitioner shall, after obtaining directions as to the mode of hearing, set the cause down for hearing, and on the same day give

notice of his having done so to each party in the cause for whom an appearance has been entered. See also Rules 205 and 206.

46. If the Petitioner fail to file the questions for the jury, or to set down the cause for trial or hearing, or to give due notice thereof, for the space of one month, after directions have been given as to the mode in which the cause shall be tried or heard, either of the Respondents entitled to be heard at such trial or hearing may file the questions for the jury, and set the cause down for trial or hearing, and shall on the same day give notice of his having done so to the Petitioner, and to each of the other parties to the cause for whom an appearance has been entered.

47. A copy of every notice of the cause being set down for trial or hearing shall be filed in the Registry, and the cause shall come on in its turn, unless the Judge Ordinary shall otherwise direct.

Trial or Hearing.

48. No cause shall be called on for trial or hearing until after the expiration of ten days from the day when the same has been set down for trial or hearing, and notice thereof has been given, save with the consent of all parties to the suit.

49. The Registrar shall enter in the Court Book the finding of the jury and the decree of the Court, and shall sign the same.

50. Either of the Respondents in the cause, after entering an appearance, without filing an answer to the petition in the principal cause, may be heard in respect of any question as to costs, and a Respondent, who is husband or wife of the Petitioner, may be heard also in respect to any question as to custody of children, but a Respondent who may be so heard is not at liberty to bring in affidavits

touching matters in issue in the principal cause, and no such affidavits can be read or made use of as evidence in the cause.

Evidence taken by Affidavit.

51. When the Judge Ordinary has directed that all or any of the facts set forth in the pleadings be proved by affidavits, such affidavits shall be filed in the Registry within eight days from the time when such direction was given, unless the Judge Ordinary shall otherwise direct. See also Rule 188.

52. Counter-affidavits as to any facts to be proved by affidavit may be filed within eight days from the filing of the affidavits which they are intended to answer.

53. Copies of all such affidavits and counter-affidavits shall on the day the same are filed be delivered to the other parties to be heard on the trial or hearing of the cause, or to their proctors, solicitors, or attorneys.

54. Affidavits in reply to such counter-affidavits cannot be filed without permission of the Judge Ordinary or of the Registrars in his absence.

55. Application for an order for the attendance of a Deponent for the purpose of being cross-examined in open Court shall be made to the Judge Ordinary, on summons.

Proceedings by Petition.

56. Any party to a cause who has entered an appearance may apply on summons to the Judge Ordinary, or in his absence to the Registrars, to be heard on his petition touching any collateral question which may arise in a suit.

57. The party to whom leave has been given to be heard on his petition shall within eight days file his act on petition in the Registry, and on the same day deliver a copy thereof to such parties in the cause as are required to answer thereto.

58. Each party to whom a copy of an act on petition is delivered shall within eight days after receiving the same file his or her answer thereto in the Registry, and on the same day deliver a copy thereof to the opposite party, and the same course shall be pursued with respect to the reply, rejoinder, &c., until the act on petition is concluded.

59. A form of act on petition, answer, and conclusion is given, page 194.

60. Each party to the act on petition shall within eight days from that on which the last statement in answer is filed, file in the Registry such affidavits and other proofs as may be necessary in support of their several averments.

61. After the time for filing affidavits and proofs has expired, the party filing the act on petition is to set down the petition for hearing in the same manner as a cause; and in the event of his failing to do so within a month any party who has filed an answer thereto may set the same down for hearing, and the petition will be heard in its turn with other causes to be heard by the Judge Ordinary without a jury.

New Trial and Hearing.

62. An application to the Judge Ordinary for a new trial of issues of fact tried by a jury, or for a re-hearing of a cause, may be made by motion within 14 days from the day on which the issues were tried or the cause was heard, if the Judge Ordinary be then sitting to hear motions, if not, on the first day appointed for hearing motions in this Court after the expiration of the 14 days.

Petition for reversal of Decree of Judicial Separation.

63. A petition to the Court for the reversal of a decree of judicial separation must set out the grounds on which the Petitioner relies.

64. Before such a petition can be filed, an appearance on behalf of the party praying for a reversal of the decree of judicial separation must be entered in the cause in which the decree has been pronounced.

65. A certified copy of such a petition, under seal of the Court, shall be delivered personally to the party in the cause in whose favour the decree has been made, who may within 14 days file an answer thereto in the Registry, and shall on the day on which the answer is filed deliver a copy thereof to the other party in the cause, or to his or her proctor, solicitor, or attorney.

66. All subsequent pleadings and proceedings arising from such petition and answer shall be filed and carried on in the same manner as before directed in respect of an original petition for judicial separation, and answer thereto, so far as such directions are applicable.

Demurrer.

67. All demurrers are to be set down for hearing in the same manner as causes, and will come on in their turn with other causes to be heard by the Judge Ordinary without a jury, unless the Judge Ordinary shall direct otherwise.

Intervention of the Queen's Proctor.

68. The Queen's Proctor shall, within 14 days after he has obtained leave to intervene in any cause, enter an appearance and plead to the petition; and on the day he files his plea in the Registry shall deliver a copy thereof to the Petitioner, or to his proctor, solicitor, or attorney.

69. All subsequent pleadings and proceedings in respect to the Queen's Proctor's intervention in a cause shall be filed and carried on in the same manner as before directed in respect of the pleadings and proceedings of the original parties to the cause. See also Rule 202.

Showing Cause against a Decree.

70. Any person wishing to show cause against making absolute a *decree nisi* for dissolution of a marriage shall enter an appearance in the cause in which such *decree nisi* has been pronounced.

71. Every such person shall at the time of entering an appearance, or within four days thereafter, file affidavits setting forth the facts upon which he relies.

72. Upon the same day on which such person files his affidavits he shall deliver a copy of the same to the party in the cause in whose favour the *decree nisi* has been pronounced.

73. The party in the cause in whose favour the *decree nisi* has been pronounced may, within eight days after delivery of the affidavits, file affidavits in answer, and shall, upon the day such affidavits are filed, deliver a copy thereof to the person showing cause against the decree being made absolute.

74. The person showing cause against the *decree nisi* being made absolute may within eight days file affidavits in reply, and shall upon the same day deliver copies thereof to the party supporting the *decree nisi*.

75. No affidavits are to be filed in rejoinder to the affidavits in reply without permission of the Judge Ordinary or of one of the Registrars in his absence.

76. The questions raised on such affidavits shall be argued in such manner and at such time as the Judge Ordinary may on application by motion direct; and if he thinks fit to direct any controverted questions of fact to be tried by a jury, the same shall be settled and tried in the same manner and subject to the same rules as any other issue tried in this Court.

Rules 70 to 76 not applicable to the Queen's Proctor. See Rule 202.

Appeals to the full Court. See ante, page 146.

77. An appeal to the full Court from a decision of the Judge Ordinary must be asserted in writing, and the instrument of appeal filed in the Registry within the time allowed by law for appealing from such decision; and on the same day on which the appeal is filed, notice thereof, and a copy of the appeal, shall be delivered to each Respondent in the appeal, or to his or her proctor, solicitor, or attorney.

78. The Appellant within ten days after filing his instrument of appeal, or within such further time as may be allowed by the Judge Ordinary, or by the Registrars in his absence, shall file in the Registry his case in support of the appeal in triplicate, and on the same day deliver a copy thereof to each Respondent in the appeal, or to his proctor, solicitor, or attorney, who, within ten days from the time of such filing and delivery or from such further time as may be allowed for the purpose by the Judge Ordinary, or the Registrars in his absence, shall be at liberty to file in the Registry a case against the appeal, also in triplicate, and the Respondent shall on the same day deliver a copy thereof to the Appellant, or to his proctor, solicitor, or attorney.

79. After the expiration of ten days from the time when the Respondent has filed his case, or, if he has filed none, from the time allowed him for the purpose, the appeal shall stand for hearing at the next sittings of the full Court, and will be called on in its turn, unless otherwise directed.

Decree absolute.

80. All applications to make absolute a *decree nisi* for dissolution of a marriage must be made to the Court by motion. In support of such applications it must be shown by affidavit filed with the case for motion that search has been made in the proper books at the Registry up to within two days of the affidavit being filed, and that at such time

no person had obtained leave to intervene in the cause, and that no appearance had been entered nor any affidavits filed on behalf of any person wishing to show cause against the *decree nisi* being made absolute; and in case leave to intervene had been obtained, or appearance entered, or affidavits filed on behalf of any such person, it must be shown by affidavit what proceedings, if any, had been taken thereon, but it shall not be necessary to file a copy of the *decree nisi*. See also Rules 194 and 207.

Alimony.

81. The wife, being the Petitioner in a cause, may file her petition for alimony pending suit at any time after the citation has been duly served on the husband, or after order made by the Judge Ordinary to dispense with such service, provided the factum of marriage between the parties is established by affidavit previously filed.

82. The wife, being the Respondent in a cause, after having entered an appearance, may also file her petition for alimony pending suit.

83. A Form of Petition for Alimony is given. Ante, page 98.

84. The husband shall, within eight days after the filing and delivery of a petition for alimony, file his answer thereto upon oath.

85. The husband, being Respondent in the cause, must enter an appearance before he can file an answer to a petition for alimony.

86. The wife, if not satisfied with the husband's answer, may object to the same as insufficient, and apply to the Judge Ordinary on motion to order him to give a further and fuller answer, or to order his attendance on the hearing of the petition for the purpose of being examined thereon. See also Rule 189.

87. In case the answer of the husband alleges that the wife has property of her own, she may (within eight days) file a reply on oath to that allegation; but the husband is not at liberty to file a rejoinder to such reply without permission of the Judge Ordinary, or of one of the Registrars in his absence.

88. A copy of every petition for alimony, answer and reply, must be delivered to the opposite party, or to his or her proctor, solicitor, or attorney, on the day the same is filed.

89. After the husband has filed his answer to the petition for alimony (subject to any order as to costs), or, if no answer is filed, at the expiration of the time allowed for filing an answer, the wife may proceed to examine witnesses in support of her petition, and apply by motion for an allotment of alimony pending suit, notice of the motion, and of the intention to examine witnesses, being given to the husband, or to his proctor, solicitor, or attorney, four days previously to the motion being heard and the witnesses examined, unless the Judge Ordinary shall dispense with such notice. See also Rules 191 and 192.

90. No affidavits can be read or made use of as evidence in support of or in opposition to the averments contained in a petition for alimony, or in an answer to such a petition, or in a reply, except such as may be required by the Judge Ordinary or by one of the Registrars.

91. A wife who has obtained a final decree of judicial separation in her favour, and has previously thereto filed her petition for alimony pending suit, on such decree being affirmed on appeal to the full Court, or after the expiration of the time (three months, see 20 & 21 Vict., c. 85, sec. 55) for appealing against the decree, if no appeal be then pending, may apply to the Judge Ordinary by motion for an allotment of permanent alimony; provided that she shall, eight days at least before making such application,

give notice thereof to the husband or to his proctor, solicitor, or attorney. See also Rule 190.

92. A wife may at any time after alimony has been allotted to her, whether alimony pending suit or permanent alimony, file her petition for an increase of the alimony allotted by reason of the increased faculties of the husband, or the husband may file a petition for a diminution of the alimony allotted by reason of reduced faculties; and the course of proceeding in such cases shall be the same as required by these Rules and Regulations in respect of the original petition for alimony, and the allotment thereof, so far as the same are applicable.

93. Permanent alimony shall, unless otherwise ordered, commence and be computed from the date of the final decree of the Judge Ordinary, or of the full Court on appeal, as the case may be.

94. Alimony, pending suit, and also permanent alimony, shall be paid to the wife, or to some person or persons to be nominated in writing by her, and approved of by the Court, as trustee or trustees on her behalf.

Maintenance and Settlements.

95. Applications to the Court to exercise the authority given by Sections 32 and 45 of 20 & 21 Vict., c. 85, and by Section 5 of the 22 & 23 Vict., c. 61, are to be made in a separate petition, which must, unless by leave of the Judge, be filed as soon as by the said statutes such applications can be made, or within one month thereafter.

96. In cases of application for maintenance under Section 32 of the 20 & 21 Vict., c. 85, such petition may be filed as soon as a *decree nisi* has been pronounced, but not before.

97. A certified copy of such petition, under seal of the Court, shall be personally served on the husband or wife (as

the case may be), and on the person or persons who may have any legal or beneficial interest in the property in respect of which the application is made, unless the Judge Ordinary on motion shall direct any other mode of service, or dispense with service of the same on them or either of them.

98. The husband or wife (as the case may be), and the other person or persons (if any) who are served with such petition, within 14 days after service, may file his, her, or their answer on oath to the said petition, and shall on the same day deliver a copy thereof to the opposite party, or to his proctor, solicitor, or attorney.

99. Any person served with the petition, not being a party to the principal cause must enter an appearance before he or she can file an answer thereto.

100. Within 14 days from the filing the answer, the opposite party may file a reply thereto, and the same period shall be allowed for filing any further pleading by way of rejoinder.

101. Such pleadings, when completed, shall in the first instance be referred to one of the Registrars, who shall investigate the averments therein contained, in the presence of the parties, their proctors, solicitors, or attorneys, and who for that purpose shall be at liberty to require the production of any documents referred to in such pleadings, or to call for any affidavits, and shall report in writing to the Court the result of his investigation, and any special circumstances to be taken into consideration with reference to the prayer of the petition. See also Rule 204.

102. The report of the Registrar shall be filed in the Registry by the husband or wife on whose behalf the petition has been filed, who shall give notice thereof to the other parties heard by the Registrar; and either of the parties, within 14 days after such notice has been given, if

the Judge Ordinary be then sitting to hear motions, otherwise on the first day appointed for motions after the expiration of 14 days, may be heard by the Judge Ordinary on motion in objection to the Registrar's report, or may apply on motion for a decree or order to confirm the same, and to carry out the prayer of the petition.

103. The costs of a wife of and arising from the said petition or answer shall not be allowed on taxation of costs against the husband before the final decree in the principal cause, without direction of the Judge Ordinary.

Custody of and Access to Children.

104. Before the trial or hearing of a cause a husband or wife who are parties to it may apply for an order with respect to the custody, maintenance, or education of, or for access to children, issue of their marriage, to the Judge Ordinary, by motion founded on affidavit. See also Rule 212.

Guardians to Minors.

105. A minor above the age of seven years may elect any one or more of his or her next-of-kin, or next friends, as guardian, for the purpose of proceeding on his or her behalf as Petitioner, Respondent, or Intervener in a cause.

106. The necessary instrument of election must be filed in the Registry before the guardian elected can be permitted to extract a citation or to enter an appearance on behalf of the minor.

107. When a minor shall elect some person or persons other than his or her next-of-kin, as guardian for the purposes of a suit, or when an infant (under the age of seven years) becomes a party to a suit, application, founded on affidavit, is to be made to one of the Registrars, who will assign a guardian to the minor or infant for such suit.

108. It shall not be necessary for a minor who, as an alleged adulterer, is made a Co-Respondent in a suit, to elect a guardian or to have a guardian assigned to him for the purpose of conducting his defence.

Subpœnas.

109. Every subpoena shall be written or printed on parchment, and may include the names of any number of witnesses. The party issuing the same, or his or her proctor, solicitor, or attorney, shall take it, together with a præcipe, to the Registry, and there get it signed and sealed, and there deposit the præcipe. See also Rule 180.

Writs of Attachment and other Writs.

110. Applications for writs of attachment, and also for writs of fieri facias and of sequestration, must be made to the Judge Ordinary by motion in Court. See also Rules 179 and 203.

111. Such writs, when ordered to issue, are to be prepared by the party at whose instance the order has been obtained, and taken to the Registry, with an office copy of the order, and, when approved and signed by one of the Registrars, shall be sealed with the seal of the Court, and it shall not be necessary for the Judge Ordinary or for other Judges of the Court to sign such writs.

112. Any person in custody under a writ of attachment may apply for his or her discharge to the Judge Ordinary if the Court be then sitting; if not, then to one of the Registrars, who for good cause shown shall have power to order such discharge.

Notices.

113. All notices required by these rules and regulations, or by the practice of the Court, shall be in writing, and

signed by the party, or by his or her proctor, solicitor, or attorney.

Service of Notices, &c.

114. It shall be sufficient to leave all notices and copies of pleadings and other instruments which by these Rules and Regulations are required to be given or delivered to the opposite parties in the cause, or to their proctors, solicitors, or attorneys, and personal service of which is not expressly required at the address furnished as aforesaid by the Petitioner and Respondent respectively. See also Rule 39.

115. When it is necessary to give notice of any motion to be made to the Court, such notice shall be served on the opposite parties who have entered an appearance four clear days previously to the hearing of such motion, and a copy of the notice so served shall be filed in the Registry with the case for motion, but no proof of the service of the notice will be required, unless by direction of the Judge Ordinary.

116. If an order be obtained on motion without due notice to the opposite parties, such order will be rescinded on the application of the parties upon whom the notice should have been served; and the expense of and arising from the rescinding of such order shall fall on the party who obtained it, unless the Judge Ordinary shall otherwise direct.

117. When it is necessary to serve personally any order or decree of the Court, the original order or decree, or an office copy thereof, under Seal of the Court, must be produced to the party served, and annexed to the affidavit of service marked as an exhibit by the Commissioner or other person before whom the affidavit is sworn.

Office Copies, Extracts, &c.

118. The Registrars of the Principal Registry of the Court of Probate are to have the custody of all pleadings

and other documents now or hereafter to be brought in or filed, and of all entries of orders and decrees made in any matter or suit depending in the Court for Divorce and Matrimonial Causes; and all Rules and Orders, and Fees payable in respect of searches for and inspection or copies of and extracts from and attendance with books and documents in the Registry of the Court of Probate, shall extend to such pleadings and other documents brought in or filed, and all entries of orders and decrees made in the Court for Divorce and Matrimonial Causes, save that the length of copies and extracts shall in all cases be computed at the rate of 72 words per folio.

119. Office copies or extracts furnished from the Registry of the Court of Probate will not be collated with the originals from which the same are copied, unless specially required. Every copy so required to be examined shall be certified under the hand of one of the Principal Registrars of the Court of Probate to be an Examined Copy.

120. The seal of the Court will not be affixed to any copy which is not certified to be an Examined Copy.

Time fixed by these Rules.

121. The Judge Ordinary shall in every case in which a time is fixed by these Rules and Regulations for the performance of any act, or for any proceeding in default, have power to extend the same to such time and with such qualifications and restrictions and on such terms as to him may seem fit.

122. To prevent the time limited for the performance of any act, or for any proceeding in default, from expiring before application can be made to the Judge Ordinary for an extension thereof, any one of the Registrars may, upon reasonable cause being shown, extend the time, provided that such time shall in no case be extended beyond the day upon

which the Judge Ordinary shall next sit in Chambers. See also Rules 181 to 184.

123. The time fixed by these Rules and Regulations for the performance of any act, or for any proceeding in a cause, shall in all cases be exclusive of Sundays, Christmas Day, and Good Friday.

Protection Orders.

124. Applications on the part of a wife deserted by her husband for an order to protect her earnings and property, acquired since the commencement of such desertion, shall be made in writing to the Judge Ordinary in Chambers, and supported by affidavit. See also Rule 197.

125. Applications for the discharge of any order made to protect the earnings and property of a wife are to be made to the Judge Ordinary by motion, and supported by affidavit. Notice of such motion, and copies of any affidavit or other document to be read or used in support thereof, must be personally served on the wife eight clear days before the motion is heard.

Bond not required.

126. On a decree of judicial separation being pronounced, it shall not be necessary for either party to enter into a bond conditioned against marrying again.

Change of Proctor, Solicitor, or Attorney.

127. A party may obtain an order to change his or her proctor, solicitor, or attorney upon application by summons to the Judge Ordinary, or to the Registrars in his absence. See also Rules 181 to 184.

128. In case the former proctor, solicitor, or attorney neglects to file his bill of costs for taxation at the time

required by the order served upon him, the party may, with the sanction and by order of the Judge Ordinary or of the Registrars, proceed in the cause by the new proctor, solicitor, or attorney, without previous payment of such costs.

Order for the immediate Examination of a Witness.

129. Application for an order for the immediate examination of a witness who is within the jurisdiction of the Court is to be made to the Judge Ordinary, or to the Registrars in his absence, by summons, or if on behalf of a Petitioner proceeding in default of appearance of the parties cited in the cause without summons before one of the Registrars, who will direct the order to issue, or refer the application to the Judge Ordinary, as he may think fit. See also Rules 181 to 184.

130. Such witness shall be examined *viva voce*, unless otherwise directed, before a person to be agreed upon by the parties in the cause, or to be nominated by the Judge Ordinary or by the Registrars to whom the application for the order is made.

131. The parties entitled to cross-examine the witness to be examined under such an order shall have four clear days' notice of the time and place appointed for the examination, unless the Judge Ordinary or the Registrars to whom the application is made for the order shall direct a shorter notice to be given.

Commissions and Requisitions for Examination of Witnesses.

132. Application for a commission or requisition to examine witnesses who are out of the jurisdiction of the Court is to be made by summons, or if on behalf of a Petitioner proceeding in default of appearance without summons, before one of the Registrars, who will order such

commission or requisition to issue, or refer the application to the Judge Ordinary, as he may think fit.

133. A commission or requisition for examination of witnesses may be addressed to any person to be nominated and agreed upon by the parties in the cause, and approved of by the Registrar, or for want of agreement to be nominated by the Registrar to whom the application is made.

134. The commission or requisition is to be drawn up and prepared by the party applying for the same, and a copy thereof shall be delivered to the parties entitled to cross-examine the witnesses to be examined thereunder two clear days before such commission or requisition shall issue, under seal of the Court, and they or either of them may apply to one of the Registrars by summons to alter or amend the commission or requisition, or to insert any special provision therein, and the Registrar shall make an order on such application, or refer the matter to the Judge Ordinary.

135. Any of the parties to the cause may apply to one of the Registrars by summons for leave to join in a commission or requisition, and to examine witnesses thereunder; and the Registrar to whom the application is made may direct the necessary alterations to be made in the commission or requisition for that purpose, and settle the same, or refer the application to the Judge Ordinary.

136. After the issuing of a summons to show cause why a party to the cause should not have leave to join in a commission or requisition, such commission or requisition shall not issue under seal without the direction of one of the Registrars.

137. In case a husband or wife shall apply for and obtain an order or a commission or requisition for the examination of witnesses, the wife shall be at liberty, without any special order for that purpose, to apply by summons to one of the Registrars to ascertain and report to the Court

what is a sufficient sum of money to be paid or secured to the wife to cover her expenses in attending at the examination of such witnesses in pursuance of such order, or in virtue of such commission or requisition, and such sum of money shall be paid or secured before such order or such commission or requisition shall issue from the Registry, unless the Judge Ordinary, or one of the Registrars in his absence shall otherwise direct. See also Rule 198.

Affidavits.

138. Every affidavit is to be drawn in the first person, and the addition and true place of abode of every deponent is to be inserted therein.

139. In every affidavit made by two or more persons, the names of the several persons making it are to be written in the jurat.

140. No affidavit will be admitted in any matter depending in the Court for Divorce and Matrimonial Causes in which any material part is written on an erasure, or in the jurat of which there is any interlineation or erasure, or in which there is any interlineation the extent of which at the time when the affidavit was sworn is not clearly shown by the initials of the Registrar, Commissioner, or other authority before whom it was sworn.

141. Where an affidavit is made by any person who is blind, or who, from his or her signature or otherwise, appears to be illiterate, the Registrar, Commissioner, or other authority before whom such affidavit is made is to state in the jurat that the affidavit was read in the presence of the party making the same, and that such party seemed perfectly to understand the same, and also made his or her mark, or wrote his or her signature thereto, in the presence of the Registrar, Commissioner, or other authority before whom the affidavit was made.

142. No affidavit is to be deemed sufficient which has been sworn before the party on whose behalf the same is offered, or before his or her proctor, solicitor, or attorney, or before a partner or clerk of his or her proctor, solicitor, or attorney.

143. Proctors, solicitors, and attorneys, and their clerks respectively, if acting for any other proctor, solicitor, or attorney, shall be subject to the Rules and Regulations in respect of taking affidavits which are applicable to those in whose stead they are acting.

144. No affidavit can be read or used unless the proper stamps to denote the fees payable on filing the same are delivered with such affidavit.

145. Where a special time is fixed for filing affidavits, no affidavit filed after that time shall be used unless by leave of the Judge Ordinary.

146. The above Rules and Regulations in respect to affidavits shall, so far as the same are applicable, be observed in respect to affirmations and declarations to be read or used in the Court for Divorce and Matrimonial Causes.

Cases for Motion.

147. Cases for motion are to set forth the style and object of, and the names and descriptions of the parties to, the cause or proceeding before the Court; the proceedings already had in the cause, and the dates of the same; the prayer of the party on whose behalf the motion is made, and briefly, the circumstances on which it is founded.

148. If the cases tendered are deficient in any of the above particulars, the same shall not be received in the Registry without permission of one of the Registrars.

149. On depositing the case in the Registry, and giving notice of the motion, the affidavits in support of the motion, and all original documents referred to in such affidavits, or

to be referred to by counsel on the hearing of the motion, must be also left in the Registry; or in case such affidavits or documents have been already filed or deposited in the Registry, the same must be searched for, looked up, and deposited with the proper clerk, in order to their being sent with the case to the Judge Ordinary.

150. Copies of any affidavit or documents to be read or used in support of a motion are to be delivered to the opposite parties to the suit who are entitled to be heard in opposition thereto.

Taxing Bills of Costs.

151. All bills of costs are referred to the Registrars of the Principal Registry of the Court of Probate for taxation, and may be taxed by them, without any special order for that purpose. Such bills are to be filed in the Registry. See also Rule 177.

152. Notice of the time appointed for taxation will be forwarded to the party filing the bill, at the address furnished by such party.

153. The party who has obtained an appointment to tax a bill of costs shall give the other party or parties to be heard on the taxation thereof at least one clear day's notice of such appointment, and shall at or before the same time deliver to him or them a copy of the bill to be taxed.

154. When an appointment has been made by a Registrar of the Court of Probate for taxing any bill of costs, and any parties to be heard on the taxation do not attend at the time appointed, the Registrar may nevertheless proceed to tax the bill after the expiration of a quarter of an hour, upon being satisfied by affidavit that the parties not in attendance had due notice of the time appointed.

155. The bill of costs of any proctor, solicitor, or attorney will be taxed on his application as against his client,

after sufficient notice given to the person or persons liable for the payment thereof, or on the application of such person or persons, after sufficient notice given to the practitioner.

156. The fees payable on the taxation of any bill of costs shall be paid by the party on whose application the bill is taxed, and shall be allowed as part of such bill ; but if more than one sixth of the amount of any bill of costs taxed as between practitioner and client is disallowed on the taxation thereof, no costs incurred in such taxation shall be allowed as part of such bill. See also Rule 200.

157. If an order for payment of costs is required, the same may be obtained by summons, on the amount of such costs being certified by the Registrar. See also Rules 178, 179 and 201.

Wife's Costs.—As amended 14th July 1875.

158. After directions given as to the mode of hearing or trial of a cause, or in an earlier stage of a cause by order of the Judge Ordinary, or of the Registrars, to be obtained on summons, a wife who is Petitioner, or has entered an appearance as Respondent in a cause, may file her bill or bills of costs for taxation as against her husband, and the Registrar to whom such bills of costs are referred for taxation shall, when directions as to the mode of hearing or trial have been given, ascertain what is a sufficient sum of money to be paid into the Registry, or what is a sufficient security to be given by the husband to cover the costs of the wife of and incidental to the hearing of the cause ; and shall thereupon issue an order upon the husband to pay or secure the said sum within a time to be fixed by the Registrar ; provided that in case the husband should by reason of his wife having separate property, or for other reasons, dispute her right to recover any costs pending suit against him, the Registrar may suspend the order to pay the wife's taxed costs, or to pay or

secure the sum ascertained to be sufficient to cover her costs of and incidental to the hearing of the cause, for such length of time as shall seem to him necessary to enable the husband to obtain the decision of the Court as to his liability.

159. When on the hearing or trial of a cause the decision of the Judge Ordinary or the verdict of the Jury is against the wife, no costs of the wife of and incidental to such hearing or trial shall be allowed as against the husband, except such as shall be applied for, and ordered to be allowed by the Judge Ordinary, at the time of such hearing or trial. See also Rule 201.

Summonses.

160. A summons may be taken out by any person in any matter or suit depending in the Court for Divorce and Matrimonial Causes, provided there is no rule or practice requiring a different mode of proceeding.

161. The name of the cause or matter, and of the agent taking out the summons, is to be entered in the summons Book, and a true copy of the summons is to be served on the party summoned one clear day at least before the summons is returnable, and before 7 o'clock p.m. On Saturdays the copy of the summons is to be served before 2 o'clock p.m.

162. On the day and at the hour named in the summons the party taking out the same is to present himself with the original summons at the Judge's Chambers, or elsewhere appointed for hearing the same.

163. Both parties will be heard by the Judge Ordinary, who will make such order as he may think fit, and a minute of such order will be made by one of the Registrars in the Summons Book. See also Rules 181 to 184.

164. If the party summoned do not appear after the lapse of half an hour from the time named in the summons, the party taking out the summons shall be at liberty to go

before the Judge Ordinary, who will thereupon make such order as he may think fit.

165. An attendance on behalf of the party summoned for the space of half an hour, if the party taking out the summons do not during such time appear, will be deemed sufficient, and bar the party taking out the summons from the right to go before the Judge Ordinary on that occasion.

166. If a formal order is desired, the same may be had on the application of either party, and for that purpose the original summons, or the copy served on the party summoned, must be filed in the Registry. An order will thereupon be drawn up, and delivered to the person filing such summons or copy.

167. If a summons is brought to the Registry, with consent to an order endorsed thereon, signed by the party summoned, or by his proctor, solicitor, or attorney, an order will be drawn up without the necessity of going before the Judge Ordinary; provided that the order sought is in the opinion of the Registrar one which, under the circumstances, would be made by the Judge Ordinary.

168. The same Rules and Regulations shall, so far as applicable, be observed in respect to summonses which may be heard and disposed of by the Registrars.

Payment of Money out of Court.

169, 170, 171.—Proceedings altered by “Supreme Court Funds Rules, 1884.” For present Practice, see Page 126.

Registries and Officers.

172. The Registry of the Court for Divorce and Matrimonial Causes, and the clerks employed therein, shall be subject to and under the control of the Registrars of the Principal Registry of the Court of Probate.

173. The Record Keepers, the Sealer, and other officers of the Principal Registry of the Court of Probate, shall discharge the same or similar duties in the Court for Divorce and Matrimonial Causes, and in the Registry thereof, as they discharge in the Court of Probate and the principal Registry thereof.

Proceedings under "the Legitimacy Declaration Act, 1858."

174. The above Rules and Regulations, so far as the same may be applicable, shall extend to applications and proceedings under "the Legitimacy Declaration Act, 1858."

ADDITIONAL RULES.—30TH JANUARY, 1869.

Restitution for Conjugal Rights.

175. The affidavit filed with the petition, as required by Rule 2, shall further state sufficient facts to satisfy one of the Registrars that a written demand for cohabitation and Restitution of conjugal rights has been made by the Petitioner upon the party to be cited, and that, after a reasonable opportunity for compliance therewith such cohabitation and restitution of conjugal rights have been withheld.

176. At any time after the commencement of proceedings for restitution of conjugal rights the Respondent may apply by summons to the Judge, or to the Registrars in his absence, for an order to stay the proceedings in the cause by reason that he or she is willing to resume or to return to cohabitation with the Petitioner.

As to Costs.

177. In all cases in which the Court at the hearing of a cause condemns any party to the suit in costs, the proctor, solicitor, or attorney of the party to whom such costs are to

be paid may forthwith file his bill of costs in the Registry, and obtain an appointment for the taxation, provided that such taxation shall not take place before the time allowed for moving for a new trial or re-hearing shall have expired; or, in case a rule nisi should have been granted, until the rule is disposed of, unless the Judge Ordinary shall, for cause shown, direct a more speedy taxation.

178. Upon the Registrar's certificate of costs being signed, he shall at once issue an order of the Court for payment of the amount within seven days. See also Rules from 151 to 158, and 201.

179. This order shall be served on the proctor, solicitor, or attorney of the party liable [or if it is desired to enforce the order by attachment on the party himself], and if the costs be not paid within the seven days a writ of Fieri facias or writ of sequestration shall be issued as of course in the Registry, upon an affidavit of service of the order and non-payment. See also Rules 110, 111, and 203.

As to Subpœnas.

180. The issuing of fresh subpœnas in each term shall be abolished, and it shall not be necessary to serve more than one subpœna upon any witness.

ADDITIONAL AND AMENDED RULES.—23RD FEBRUARY, 1875.

181. All summonses heretofore heard by the Registrars of the Principal Registry of the Court of Probate in the absence of the Judge Ordinary shall hereafter be heard before one or more of the Registrars at the Principal Registry of that Court during the period appointed for the sittings of the Court at Westminster, as well as in the Judge's absence.

182. All Rules and Regulations in respect to summonses now heard before the Judge Ordinary in Chambers at

Westminster shall, so far as the same are applicable, be observed in respect of the summonses heard before one or more of the Registrars at the Principal Registry. See Rules from 160 to 168.

183. The Registrar before whom the summons is heard will direct such order to issue as he shall think fit, or refer the matter at once to the Judge Ordinary.

184. Any person heard on the summons objecting to the order so issued under the direction of the Registrars may, subject to any order as to costs, apply to the Judge Ordinary on summons to rescind or vary the same.

ADDITIONAL RULES.—14TH JULY, 1875.

Appearance.

185. Application for leave to enter an appearance after a proceeding has been taken in default heretofore made to the Judge Ordinary on motion in pursuance of Rule 20 shall hereafter be made by summons before one of the Registrars. See also Rule 20.

Answer.

186. In case the time allowed for entry of appearance to a citation should be more than eight days after service thereof, a Respondent who has entered an appearance may, within 14 days from the expiration of the time allowed for the entry of appearance, file in the Registry an answer to the petition. See also Rule 28.

General Rule as to Pleadings.

187. Either of the parties before the Court desiring to alter or amend a pleading may apply by summons to one of the Registrars for an order for that purpose. See also Rule 34.

Evidence taken by Affidavit.

188. In an undefended cause when directions have been given that all or any of the facts set forth in the petition be proved by affidavits, such affidavits may be filed in the Registry at any time up to ten clear days before the cause is heard. See also Rule 51.

Alimony.

189. Application for an order for a further and fuller answer to a petition for alimony, heretofore made to the Judge Ordinary on motion in pursuance of Rule 86, shall hereafter be made by summons before one of the Registrars. See Rule 86.

190. A wife who has obtained a final decree of judicial separation, on such decree being affirmed on appeal, or after the expiration of the time for appealing against the decree if no appeal be then pending, may apply to the Court by petition for an allotment of permanent alimony, though no alimony shall have been allotted to her pending suit, and the Rules from 84 to 88, both inclusive, of the Rules and Regulations for this Court, bearing date 26th December, 1865, relating to petitions for alimony pending suit as varied by these and other Additional Rules and Regulations shall, so far as the same are applicable, be observed in respect to the proceedings upon such petitions for permanent alimony. See also Rules 84 to 88, and 91 and 92.

191. All applications for an allotment of alimony pending suit, and for an allotment of permanent alimony heretofore made to the Court by motion in pursuance of Rules 89 and 91, shall hereafter be referred to one of the Registrars at the Principal Registry, who shall investigate the averments in the petition for alimony, answer, and reply, in the presence of the parties, their proctors, solicitors, or attorneys, and

who, if he think fit, shall be at liberty to require the attendance of the husband for the purpose of being examined or cross-examined, and to take the oral evidence of witnesses, and to require the production of any documents or to call for affidavits, and shall direct such order to issue as he shall think fit or refer the application, or any question arising out of it, to the Judge Ordinary for his decision. See Rules 89 and 91.

192. Any person heard on the reference as to alimony before one of the Registrars, objecting to the order issued under his direction, may (subject to any order as to costs) apply to the Judge Ordinary on summons to rescind or vary the same.

Dismissal of Petition.

193. When an order has been made for the dismissal of a petition on payment of costs, the cause will not be removed from the list of causes in the Court books without an order of one of the Registrars, to obtain which it must be shown to his satisfaction the costs have been paid.

Decree Absolute.

194. In case application by motion to make absolute a *decree nisi* for the dissolution of a marriage should from any cause be deferred beyond six days from the time when the affidavit required by Rule 80 is filed with the case for motion it must be shown by further affidavit that search has been made in the proper books up to within six clear days of the motion for decree absolute being heard, and that at such time no person had obtained leave to intervene, and that no appearance had been entered nor any affidavits filed on behalf of any person wishing to show cause against the *decree nisi* being made absolute, and in case leave to intervene had been obtained, or appearance entered or affidavits

filed on behalf of any such person, it must also be shown by such further affidavit what proceedings, if any, have been taken thereon. See also Rules 80 and 207.

Custody, Maintenance, and Education of Children.

195. Rules from 97 to 102, both inclusive, of the Rules and Regulations for this Court, bearing date 26th December 1865, shall, so far as the same are applicable, be observed in respect to applications by petition, after a final decree in a cause for orders and provision with respect to the custody, maintenance, and education of children, the marriage of whose parents was the subject of the decree under the authority given to the Court by 22 & 23 Vict., cap. 61, section 4. See Rules 97 to 102.

Persons of Unsound Mind.

196. A committee duly appointed of a person found by inquisition to be of unsound mind may take out a citation and prosecute a suit on behalf of such person as a Petitioner, or enter an appearance, intervene, or proceed with the defence on behalf of such person as a Respondent; but if no committee should have been appointed, application is to be made to one of the Registrars, who will assign a guardian to the person of unsound mind, for the purpose of prosecuting, intervening in, or defending the suit on his or her behalf; provided that if the opposite party is already before the Court when the application for the assignment of a guardian is made he or she shall be served with notice by summons of such application.

Protection Orders.

197. In the affidavit in support of an application on the part of a wife deserted by her husband for an order to protect her earnings and property acquired since the commencement of such desertion, the applicant must state whether she

has any knowledge of the residence of her husband, and if he is known to be residing within the jurisdiction of the Court, he must be served personally with a summons to show cause why such order should not be made. See also Rule 124.

*Commission and Requisitions for Examination of
Witnesses.*

198. The Registrar to whom a commission or requisition for examination of witnesses is referred for settlement, on application on behalf of the wife, may proceed at once and without summons to ascertain what is a sufficient sum of money to be paid or secured to her to cover her expenses in attending at the examination of such witnesses, and shall thereupon issue an order upon the husband to pay or secure the said sum within a time to be fixed in such order. See also Rule 137.

Costs.

199. The bond taken to secure the costs of a wife of and incidental to the hearing of a cause shall be filed in the Registry of the Court of Probate, and shall not be delivered out or be sued upon without the order of the Court.

200. If more than one sixth of the amount of any bill of costs taxed as between practitioner and client is disallowed on taxation thereof, the party on whose application the bill is taxed shall be at liberty to deduct the costs incurred by him in the taxation from the amount of the bill as taxed, if so much remains due, otherwise the same shall be paid by the practitioner to the person on whose application the bill is taxed. See also Rule 156.

201. The order for payment of costs of suit in which a Respondent or Co-respondent has been condemned by a *decree nisi* shall, if applied for before the *decree nisi* is made absolute, direct the payment thereof into the Registry of the

Court of Probate, and such costs shall not be paid out of the said Registry to the party entitled to receive them under the *decree nisi* until the decree absolute has been obtained; but a wife who is unsuccessful in a cause, and who at the hearing of the cause has, in pursuance of Rule 159, obtained an order of the Judge Ordinary that her costs of and incidental to the hearing or trial of the cause shall be allowed against her husband to the extent of the sum paid or secured by him to cover such costs, may nevertheless proceed at once to obtain payment of such costs after allowance thereof on taxation. See also Rules 157, 178, and 179.

ADDITIONAL RULES—17TH APRIL 1877.

Showing Cause against a Decree Nisi.

202. When the Queen's Proctor desires to show cause against making absolute a *decree nisi* for dissolution or nullity of marriage, he shall enter an appearance in the cause in which such *decree nisi* has been pronounced, and shall within fourteen days after entering appearance file his plea in the Registry, setting forth the grounds upon which he desires to show cause as aforesaid, and on the day he files his plea in the Registry, shall deliver a copy thereof to the person in whose favour such decree has been pronounced, or to his or her solicitor, and all subsequent pleadings and proceedings in respect to such plea shall be filed and carried on in the same manner as directed by the existing Rules and Regulations Nos. 68 and 69, in regard to the plea of the Queen's Proctor, filed after obtaining leave to intervene in a cause, and the existing Rules and Regulations from No. 70 to No. 76, both inclusive, shall no longer be applicable to the Queen's Proctor on his showing cause as aforesaid, save as regards any proceedings already commenced in pursuance of the said Rules and Regulations. See Rules 68 and 69.

Writs of Fieri Facias and other Writs.

203. In default of payment of any sum of money at the time appointed by any order of the Court for the payment thereof, a writ of fieri facias or writ of sequestration or writ of Elegit shall be issued as of course in the Registry upon an affidavit of service of the order and nonpayment. See also Rules 110, 111, and 179.

Maintenance and Settlements.

204. The Registrar to whom pleadings are referred for investigation under Rule 101 shall, if he thinks fit, be at liberty to require the attendance of the husband or wife for the purpose of being examined or cross-examined, and to take the oral evidence of witnesses in the same manner as on a reference for an allotment of alimony. See Rule 101.

ADDITIONAL AND AMENDED RULES.—JULY, 1880.

Mode of Hearing or Trial.

205. It shall not be necessary in any case to apply to the Court by motion for directions as to the mode of hearing or trial of a cause. When the pleadings are concluded, the parties to a cause may proceed in all respects as though upon the day of filing the last pleading a special direction had been given by the Court as to the mode of hearing or trial to the effect following :

- 1st. In cases in which damages are not claimed that the cause be heard by oral evidence before the Court itself, without a jury.
- 2nd. In cases in which damages are claimed that the cause be tried before the Court with a common jury.

And any party to a cause may apply by summons for a direction that the cause may be heard or tried otherwise than is hereby provided. See Rules 40 and 45.

206. Before a cause is set down for hearing or trial the pleadings and proceedings in the cause shall be referred to one of the Registrars, who shall certify that the same are correct and in order, and the Registrar to whom the same are referred shall cause any irregularity in such pleadings or proceedings to be corrected, or refer any question arising therefrom to the Court for its direction; any party to the cause objecting to such direction of the Registrar may (subject to any order as to costs) apply to the Court on summons to rescind or vary the same.

Decree absolute.

207. Application to make absolute a *decree nisi* for dissolution or nullity of a marriage need not hereafter be made to the Court by motion as directed by Rules 80 and 194, but it shall be a sufficient compliance with the said rules to file in the Registry, with the affidavit or affidavits therein required, a notice in writing setting forth that application is made for such decree absolute, which will thereupon be pronounced in open court at a time appointed for that purpose. See Rules 80 and 194.

Suits in formâ Pauperis.

208. Applications for leave to prosecute or defend a suit in *formâ pauperis* may hereafter be made to one of the Registrars, who will make such order thereon as he may see fit or refer the application to the Court.

209. The affidavit required by Rule 26, if application is made by a wife to prosecute a suit against her husband in *formâ pauperis*, shall state to the best of her knowledge and belief the amount of income or means of living of her husband. See also Rules 25 and 26.

210. When a husband has been admitted to prosecute a suit against his wife in *formâ pauperis*, the wife may apply

for an order that she be at liberty to proceed with her defence in *formâ pauperis* on production of an affidavit that she has no separate property exceeding £25 in value after payment of her just debts.

211. When a wife has been permitted to prosecute a suit against her husband in *formâ pauperis*, the husband may apply for leave to proceed with his defence in *formâ pauperis* on production of an affidavit as to his income or means of living, and showing that besides his wearing apparel he is not worth £25 after payment of his just debts.

Access to Children.

212. Application on behalf of a husband or wife, parties to a cause, for access to the children of their marriage may hereafter be made by summons before one of the Registrars, who shall direct such order to issue as he thinks fit, subject to appeal to the Court by either party dissatisfied with the order as authorised by Rule 184. See also Rules 104 and 184.

FORMS.

Affidavit of Service of Citation.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

A.B. against C.B. and E.F.

I, *C.D.* of &c., make oath and say,—

That the citation, bearing date the day of 18
issued under seal of this Court against *C.B.* the Respondent
[*or R.S.* the Co-Respondent] in this cause and now hereunto
annexed, marked with the letter A, was duly served by me on
the said *C.B.* (*or R.S.*) at in the county of, &c., by
showing to h the original under seal, and by leaving
with h a true copy thereof, on the day of 18 .
And I further make oath and say that I did at the same time
and place deliver to the said *C.B.* (*or R.S.*) personally a
certified copy, under seal of this Court, of the petition filed
in this cause.

Sworn at, &c., on the day of 18 .

Before me,

Affidavit as to Particulars.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

B. v. B.

I, *Mary B.*, of in the county of the above
named petitioner, make oath and say as follows—

That I am unable from the facts at present within my

knowledge to give any further or better particulars of the acts of cruelty mentioned in the paragraphs of my petition than those contained in the paper writing hereto annexed marked A.

Sworn, &c.

M.B.

Act on Petition.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

A.B. against C.B. and R.S.

On the day of 18 .

A.B., the Petitioner [*or C.D., the solicitor of A.B., the Petitioner*] alleged that [*here state briefly the facts and circumstances upon which the Petition is founded*].

Wherefore the said A.B., or C.D., referring to the affidavits and proofs to be by him exhibited in verification of what he so alleged, prayed that [*here set forth the prayer of the Petitioner*].

(Signed) A.B. or C.D.

Answer.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

A.B. against C.B. and R.S.

On the day of 18 .

C.B., the Respondent [*or G.H., the solicitor of C.B., the Respondent*] in answer to the allegations in the act on petition, bearing date the day of 18 , of A.B., admitted [*or denied*] that [*here set forth any allegations admitted or denied*].

And he alleged that [*here state any facts or circumstances in explanation or in answer*].

Wherefore the said *C.B.* or *G.H.*, referring to the affidavits and proofs to be by her exhibited in verification of what she so alleged prayed [*here state the prayer of Respondent*].

(Signed) *C.B.* or *G.H.*

Conclusion.

A.B. against *C.B.* and *R.S.*

On the day of 18 .

A.B., the Petitioner [*or C.D.*, the solicitor for *A.B.*, the Petitioner], in reply to the allegations of *C.B.* [*or G.H.*] in her answer, bearing date denied the same in great part to be true or relevant. Wherefore he alleged and prayed as before.

(Signed) *A.B.* or *C.D.*

Petition for Reversal of Decree.

In the High Court of Justice.

Probate, Divorce, and Admiralty Division.

(Divorce.)

To the Right Honourable the President of the said Division.

The day of 18 .

The petition of *A.B.*, of , sheweth,—

1. That your Petitioner was on the day of
18 , lawfully married to *C.B.*, then *C.D.*,
Spinster [*or Widow*] at the Parish of, &c. [*here
state where the marriage took place*].
2. That on the day of your Lordship,
by your final decree, pronounced in a cause then

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FEES.

(As regulated by "Order as to Supreme Court Fees, 1884.")

Advertisements.

		£	s.	d.
Settling Abstract for any Advertisement..	..	0	10	0
Filing the Advertisement with the Abstract	..	0	2	6

Amending.

Any Document, pursuant to Order	0	2	6
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Appeal.

Entering the Appeal	2	0	0
„ Judgment	1	0	0
Filing the Notice	0	2	6

Appearance.

Entering	0	2	0
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Attendances.

Attendances, with records or documents for each day, or part of a day	1	0	0
In addition to the expenses of the Officer attending.							

Bill of Exceptions.

Signed by the Judge	0	5	0
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Bond.

Filing	0	2	6
„ Registrar's Minute with	0	3	0

Certificate or Minute.

For every Certificate under the hand of the Judge, or of one of the Registrars	0	3	0
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Citation.

	£	s.	d.
On issuing every Citation	0	5	0

Commission or Requisition.

On issuing every Commission or Requisition ..	1	0	0
Settling by Registrar. No Fee.			
Filing same with the Depositions	0	2	6

Decree Absolute.

Searching Appearance Book	0	1	0
„ Minutes	0	2	6
Filing Notice of Application	0	2	6
„ Affidavit	0	2	6

Filing.

Case on Motion, including Order	0	10	0
The Filing Fee for every other document brought into the Court or Registry	0	2	6

Judge's Notes.

Producing the Judge's Notes	0	5	0
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Minute.

Of Registrar	0	3	0
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Motions.

Filing Case, including Order	0	10	0
--------------------------------------	---	----	---

Oaths.

Administering an Oath to each Deponent ..	0	1	6
Marking each Exhibit	0	1	0

Office Copies and Extracts.

For every Office Copy or Extract of a Minute,
Order, or Decree entered in a Cause, or of any

document filed in a Cause, or deposited in the

Registry—

	£	s.	d.
If 5 folios of 72 words or under	0	2	6
Exceeding 5 folios, per folio	0	0	6
If on parchment, extra	0	1	0
For the Seal of the Court affixed to any Minute, Order, or Decree, or to any Office Copy ..	0	5	0
Collating, if under 10 folios .. .	0	2	6
Above 10 folios, 3d. per folio more.			

Orders.

For any Order	0	5	0
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Protection Order.

Filing application for an Order for the protection of a Wife's earnings and property	0	2	6
For entering the Order	0	5	0
Copy Order under Seal of the Court . . .	0	10	0

Questions for Jury.

Settling by the Registrar	0	10	0
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Receipt.

Receipt for any document or documents .. .	0	2	6
--------------------------------------------	---	---	---

References to Registrars.

On each reference for any inquiry before the
Registrars :—

For every hour or part of an hour	0	10	0
For the Registrars' Report, if 5 folios of 72 words or under	0	5	0
Exceeding 5 folios, for every additional folio, or part of a folio	0	2	0

Report.

	£	s.	d.
Filing Report	0	2	6

Searches.

Searching Appearance Books or Affidavits ..	0	1	0
Minute Books or Pleadings	0	2	6

Setting Cause down.

<i>Court itself</i> —setting down	2	0	0
„ Drawing Decree	1	0	0
„ Filing Certificate	0	2	6
„ If appearance entered, additional Fee for Filing Notice	0	2	6
<i>Jury</i> —the same, with additional Fee for Filing Draft Questions	0	2	6
„ the same, with additional Fee for Filing Questions on Parchment	0	2	6

Subpœnas.

On every Subpœna—3 Witnesses	0	5	0
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Summonses.

On each Summons	0	3	0
On Order on Summons, including the entry of same	0	5	0

Taking Evidence.

For taking the evidence of one or more Witnesses before the Registrar, and within 3 miles of the General Post Office—for each day	3	3	0
If beyond that distance, for each day, in addition to travelling expenses	5	5	0
If for part of a day only, such smaller fee as the Registrar in his discretion shall think proper..			

Taxing Costs.

Taxing every Bill of Costs :—						£	s.	d.
Under £4	0	2	0
Above £4, for every £2	0	1	0

Writs.

Sealing any Writ..	0	5	0
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COSTS ALLOWED TO SOLICITORS.

	£	s.	d.
Drawing and engrossing Petition, if ten folios or under, including copy to file..	1	0	0
If exceeding ten folios, for every additional folio, including copy to file..	0	1	4
Drawing and engrossing, <i>answers, replications</i> , and other pleadings—Petitions for Alimony and answers thereto, &c., <i>if ten folios or under, including copy to file</i> ..	1	0	0
If exceeding ten folios, for every additional folio, including copy to file..	0	1	4

Instructions.

For Petition and answers, &c.	..	..	..	0	6	8
Brief, or case for hearing	..	..	..	0	13	4

*Costs allowed to Solicitors for the use of other persons.**Counsels' Clerks' Fees.*

	£	s.	d.
Not to exceed as under :—			
Upon a fee to counsel under 5 guineas	0	2	6
5 guineas and under 10 guineas	0	5	0
10 guineas and under 20 guineas	0	10	0
20 guineas and under 30 guineas	0	15	0
30 guineas and under 50 guineas	1	0	0
50 guineas and upwards—at per cent. on the fee paid	2	10	0
On consultations :—			
Senior's clerk	0	7	6
Junior's clerk	0	2	6
On general retainer	0	10	6
On common retainer	0	2	6
On conference	0	5	0

Witnesses' Expenses.

Allowance to witnesses, including their board and
lodging :—

Common witnesses, such as labourers, journey-
men, &c. :—

If resident within five miles of the General

Post Office, per diem 0 5 0

If resident beyond that distance, per diem 0 7 6

Master tradesmen, yeomen, farmers, &c. :—

If resident within five miles of the General

Post Office, per diem 0 10 0

If resident beyond that distance, per diem 0 15 0

Auctioneers and accountants :—

If resident within five miles of the General

Post Office, per diem 1 1 0

If resident beyond that distance, per diem .. 2 2 0

	£	s.	d.
Professional men, including <i>Notaries, Engineers,</i> <i>Surveyors, &c. :—</i>			
If resident within five miles of the General			
Post Office, per diem	1	1	0
If resident beyond that distance, per diem ..	3	3	0
Clerks to attorneys, or others :—			
If resident within five miles of the General			
Post Office, per diem	0	10	6
If resident beyond that distance, per diem ..	1	1	0
Esquires, bankers, merchants, and gentlemen, per			
diem	1	1	0
Females, according to station in life :—			
If resident within five miles of the General			
Post Office, per diem, from .. 5s. to	0	10	0
If resident beyond that distance, per diem,			
from 5s. to	1	0	0
Police Inspector :—			
If resident within five miles of the General			
Post Office, per diem	0	7	6
If resident beyond that distance, per diem ..	0	10	0
Police Constable :—			
If resident within five miles of the General			
Post Office, per diem	0	5	0
If resident beyond that distance, per diem ..	0	7	6
The travelling expenses of witnesses will be allowed according to the sums reasonably and actually paid; but in no case will there be an allowance for such expenses of more than 1s. per mile one way.			

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"A good book cannot be too concise A good index can hardly be too prolix Repetitions are to be avoided in the former In the latter they should abound."—*Lord Brougham*.

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STATUTES.

DIVORCE AND MATRIMONIAL CAUSES.

20 & 21 Vict.,	c. 85	August, 1857.
21 & 22 „	c. 93	August, 1858.
21 & 22 „	c. 108	...	...	...	August, 1858.
22 & 23 „	c. 61	...	...	...	August, 1859.
23 & 24 „	c. 144	...	...	...	August, 1860.
25 & 26 „	c. 81	...	...	...	August, 1862.
27 & 28 „	c. 44	...	...	...	July, 1864.
29 „	c. 32	...	...	...	June, 1866.
31 & 32 „	c. 77	...	...	...	July, 1868.
32 & 33 „	c. 68	...	...	...	August, 1869.
36 „	c. 31	...	...	...	June, 1873.
41 „	c. 19	...	...	...	May, 1878.
47 & 48 „	c. 20	...	...	...	July, 1884.
47 & 48 „	c. 68	...	...	...	August, 1884.



20 & 21 VICT. c. 85 (MATRIMONIAL CAUSES ACT, 1857).

An Act to amend the Law relating to Divorce and Matrimonial Causes in England. [28th August, 1857.]

WHEREAS it is expedient to amend the law relating to divorce, and to constitute a court with exclusive jurisdiction in matters matrimonial in England, and with authority in certain cases to decree the dissolution of a marriage: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. This act shall come into operation on such day, not sooner than the 1st day of January, 1858, as Her Majesty shall by order in council appoint, provided that such order be made one month at least previously to the day so to be appointed. Commence-
ment of act.

II. As soon as this act shall come into operation, all jurisdiction now exerciseable by any ecclesiastical court in England in respect of divorces *à mensâ et thoro*, suits of nullity of marriage, suits of jactitation of marriage, suits for restitution of conjugal rights, and in all causes, suits, and matters matrimonial, shall cease to be so exerciseable, except so far as relates to the granting of marriage licenses, which may be granted as if this act had not been passed. Jurisdiction
in matters
matrimonial
now vested in
ecclesiastical
courts to cease.

III. Any decree or order of any ecclesiastical court of competent jurisdiction which shall have been made before this act comes into operation, in any cause or matter matrimonial, may be enforced or otherwise dealt with by the Court for Divorce and Matrimonial Causes hereinafter mentioned, in the same way as if it had been originally made by the said court under this act. The court may
enforce decrees
or orders made
before this act
comes into
operation.

STATUTES.

20 & 21 Vict.
c. 85.
As to suits
pending when
this act comes
into operation.

IV. All suits and proceedings in causes and matters matrimonial which at the time when this act comes into operation shall be pending in any ecclesiastical court in England shall be transferred to, dealt with, and decided by the said Court for Divorce and Matrimonial Causes as if the same had been originally instituted in the said court.

Power to
judges whose
jurisdiction is
determined to
deliver written
judgments.

V. Provided, that if at the time when this act comes into operation any cause or matter which would be transferred to the said Court for Divorce and Matrimonial Causes under the enactment hereinbefore contained shall have been heard before any judge having jurisdiction in relation to such cause or matter, and be then standing for judgment, such judge may at any time within six weeks after the time when this act comes into operation give in to one of the registrars attending the Court for Divorce and Matrimonial Causes a written judgment thereon signed by him; and a decree or order, as the case may require, shall be drawn up in pursuance of such judgment, and every such decree or order shall have the same force and effect as if it had been drawn up in pursuance of a judgment of the Court for Divorce and Matrimonial Causes on the day on which the same was delivered to the registrar, and shall be subject to appeal under this act.

Jurisdiction
over causes
matrimonial to
be exercised by
the Court for
Divorce and
Matrimonial
Causes.

VI. As soon as this act shall come into operation, all jurisdiction now vested in or exerciseable by any ecclesiastical court or person in England in respect of divorces *à mensâ et thoro*, suits of nullity of marriage, suits for restitution of conjugal rights, or jactitation of marriage, and in all causes, suits, and matters matrimonial, except in respect of marriage licences, shall belong to and be vested in her Majesty, and such jurisdiction, together with the jurisdiction conferred by this act, shall be exercised in the name of her Majesty in a court of record to be called "The Court for Divorce and Matrimonial Causes."

STATUTES.

VII. No decree shall hereafter be made for a divorce *à mensâ et thoro*, but in all cases in which a decree for a divorce *à mensâ et thoro* might now be pronounced the court may pronounce a decree for a judicial separation, which shall have the same force and the same consequences as a divorce *à mensâ et thoro* now has.

20 & 21 Vict.
c. 85.
No decree
for divorce
à mensâ et thoro
to be made
hereafter, but
a judicial
separation.

VIII. The Lord Chancellor, the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, the Lord Chief Baron of the Court of Exchequer, the senior puisne judge for the time being in each of the three last-mentioned courts, and the judge of her Majesty's Court of Probate constituted by any act of the present session, shall be the judges of the said court.

Judges of the
court.

IX. The judge of the Court of Probate shall be called the Judge Ordinary of the said court, and shall have full authority, either alone or with one or more of the other judges of the said court, to hear and determine all matters arising therein, except petitions for the dissolving of or annulling marriage, and applications for new trials of questions or issues before a jury, bills of exception, special verdicts, and special cases, and except as aforesaid, may exercise all the powers and authority of the said court.

Judge of the
Court of
Probate to be
the judge
ordinary, and
shall have full
authority, &c.

X. All petitions, either for the dissolution or for a sentence of nullity of marriage, and applications for new trials of questions or issues before a jury, shall be heard and determined by three or more judges of the said court, of whom the judge of the Court of Probate shall be one.

Petitions for
dissolution of
a marriage,
&c., to be
heard by three
judges.

XI. During the temporary absence of the judge ordinary, the Lord Chancellor may by writing under his hand authorize the Master of the Rolls, the judge of the Admiralty Court, or either of the lords justices, or any vice-chancellor, or any judge of the superior courts of law at Westminster, to act as judge ordinary of the said Court for Divorce and Matrimonial Causes, and the Master of the

Who to act as
judge during
absence of
the judge
ordinary.

STATUTES.

30 & 31 Vict.
c. 85.

Rolls, the judge of the Admiralty Court, lord justice, vice-chancellor, or judge of the superior courts, shall, when so acting, have and exercise all the jurisdiction, power, and authority which might have been exercised by the judge ordinary.

Sittings of
the court.

XII. The Court for Divorce and Matrimonial Causes shall hold its sittings at such place or places in London or Middlesex or elsewhere as her Majesty in council shall from time to time appoint.

Seal of the
court.

XIII. The Lord Chancellor shall direct a seal to be made for the said court, and may direct the same to be broken, altered, and renewed, at his discretion; and all decrees and orders, or copies of decrees or orders, of the said court, sealed with the said seal, shall be received in evidence.

Officers of
the court.

XIV. The registrars and other officers of the principal registry of the Court of Probate shall attend the sittings of the Court for Divorce and Matrimonial Causes, and assist in the proceedings thereof, as shall be directed by the rules and orders under this act.

Power to
advocates,
barristers, &c.,
of ecclesiastical and
superior courts
to practise in
the court.

XV. All persons admitted to practice as advocates or proctors respectively in any ecclesiastical court in England, and all barristers, attornies, and solicitors entitled to practice in the superior courts at Westminster, shall be entitled to practice in the Court of Divorce and Matrimonial Causes; and such advocates and barristers shall have the same relative rank and precedence which they now have in the judicial committee of the privy council, unless and until her Majesty shall otherwise order.

Sentence of
judicial
separation
may be obtained by
husband or
wife for
adultery, &c.

XVI. A sentence of judicial separation (which shall have the effect of a divorce *à mensâ et thoro* under the existing law, and such other legal effect as herein mentioned), may be obtained, either by the husband or the wife, on the ground of adultery, or cruelty, or desertion without cause for two years and upwards.

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XVII. Application for restitution of conjugal rights or for judicial separation on any one of the grounds aforesaid may be made by either husband or wife, by petition to the court, or to any judge of assize at the assizes held for the county in which the husband and wife reside or last resided together, and which judge of assize is hereby authorized and required to hear and determine such petition, according to the rules and regulations which shall be made under the authority of this act; and the court or judge to which such petition is addressed, on being satisfied of the truth of the allegations therein contained, and that there is no legal ground why the same should not be granted, may decree such restitution of conjugal rights or judicial separation accordingly, and where the application is by the wife may make any order for alimony which shall be deemed just: Provided always, that any judge of assize to whom such petition shall be presented may refer the same to any of her Majesty's counsel or serjeant at law named in the commission of assize or nisi prius, and such counsel or serjeant shall, for the purpose of deciding upon the matters of such petition, have all the powers that any such judge would have had by virtue of this act or otherwise.

**20 & 21 Vict.
c. 85.**

Application for restitution of conjugal rights or judicial separation may be made by husband or wife by petition to court, &c.

XVIII. For the purpose of hearing and deciding all applications under the authority of this act, the judge of assize or person nominated by him as aforesaid shall be entitled to avail himself of the services of all officers, and use and exercise all powers and authorities, which the court of assize may employ, use, and exercise for the determination of causes and other matters now usually heard and decided by them respectively, and the said judge of assize or other person shall also for the purpose have and be entitled to exercise all the powers and authorities hereby given to the court for the hearing and deciding applications made to it, and also the powers hereby given to the court to make

Powers of judges of assize for purposes of deciding applications under authority of this act.

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20 & 21 Vict. c. 85. provision touching the custody, maintenance, and education of children ; and every order made by any judge of assize or other person under the authority of this act may, on the application of the person obtaining the same, be entered as an order of the court, and when so entered shall have the same force and effect, and be enforced in the same manner, as if such order had been originally made by the court.

The court to regulate fees on proceedings before judges, &c.

XIX. The court shall from time to time fix and regulate the fees which shall be payable upon all proceedings under any application to a judge of assize under this act ; and such fees shall be received in money, for their own benefit, by the persons to whom or for whose use the same shall be directed to be paid.

Orders may be reviewed.

XX. Any order so entered as aforesaid may be reviewed, and either altered or reversed on appeal to the judge ordinary of the court, but such appeal shall not stay the intermediate execution of the order, unless the judge ordinary shall so direct, who shall have power, if such appeal be dismissed or abandoned, to order the appellant to pay to the other party the full costs incurred by reason of such appeal.

Wife deserted by her husband may apply to a police magistrate or justices in petty sessions for protection.

XXI. A wife deserted by her husband may at any time after such desertion, if resident within the metropolitan district, apply to a police magistrate, or if resident in the country to justices in petty sessions, or in either case to the court, for an order to protect any money or property she may acquire by her own lawful industry, and property which she may become possessed of after such desertion, against her husband or his creditors, or any person claiming under him ; and such magistrate or justices or court, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and property acquired since the commencement of such desertion, from her husband

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and all creditors and persons claiming under him, and such earnings and property shall belong to the wife as if she were a feme sole : provided always, that every such order, if made by a police magistrate, or justices at petty sessions, shall, within ten days after the making thereof, be entered with the registrar of the county court within whose jurisdiction the wife is resident ; and that it shall be lawful for the husband, and any creditor or other person claiming under him, to apply to the court, or to the magistrate or justices by whom such order was made, for the discharge thereof : provided also, that if the husband or any creditor of or person claiming under the husband shall seize or continue to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to restore the specific property, and also for a sum equal to double the value of the property so seized or held after such notice as aforesaid : if any such order of protection be made, the wife shall during the continuance thereof be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts, and suing and being sued, as she would be under this act if she obtained a decree of judicial separation.

20 & 21 Vict.
c. 85.

XXII. In all suits and proceedings, other than proceedings to dissolve any marriage, the said court shall proceed and act and give relief on principles and rules which in the opinion of the said court shall be as nearly as may be conformable to the principles and rules on which the ecclesiastical courts have heretofore acted and given relief, but subject to the provisions herein contained and to the rules and orders under this act.

Court to act
on principles
of the
ecclesiastical
courts.

XXIII. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time

Decree of
separation
obtained
during the

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c. 85.

absence of
husband or
wife may be
reversed.

thereafter present a petition to the court praying for a reversal of such decree on the ground that it was obtained in his or her absence, and that there was reasonable ground for the alleged desertion, where desertion was the ground of such decree; and the court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly, but the reversal thereof shall not prejudice or affect the rights or remedies which any other person would have had in case such reversal had not been decreed, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the sentence of separation and of the reversal thereof.

Court may
direct
payment of
alimony to
wife or to her
trustee.

XXIV. In all cases in which the court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself or to any trustee on her behalf, to be approved by the court, and may impose any terms or restrictions which to the court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the court expedient so to do.

In case of
judicial separa-
tion the
wife to be
considered a
feme sole with
respect to
property she
may acquire,
&c.;

XXV. In every case of a judicial separation the wife shall, from the date of the sentence and whilst the separation shall continue, be considered as a feme sole with respect to property of every description which she may acquire or which may come to or devolve upon her; and such property may be disposed of by her in all respects as a feme sole, and on her decease the same shall, in case she shall die intestate, go as the same would have gone if her husband had been then dead; provided, that if any such wife should again cohabit with her husband, all such property as she may be entitled to when such cohabitation shall take place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

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XXVI. In every case of a judicial separation the wife shall, whilst so separated, be considered as a feme sole for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any engagement or contract she may have entered into, or for any wrongful act or omission by her, or for any costs she may incur as plaintiff or defendant; provided that where upon any such judicial separation alimony has been decreed or ordered to be paid to the wife, and the same shall not be duly paid by the husband, he shall be liable for necessaries supplied for her use; provided also, that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

20 & 21 Vict.
c. 85.
also, for
purposes of
contract and
suing.

XXVII. It shall be lawful for any husband to present a petition to the said court, praying that his marriage may be dissolved, on the ground that his wife has since the celebration thereof been guilty of adultery; and it shall be lawful for any wife to present a petition to the said court, praying that her marriage may be dissolved, on the ground that since the celebration thereof her husband has been guilty of incestuous adultery, or of bigamy with adultery, or of rape, or of sodomy or bestiality, or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *à mensâ et thoro*, or of adultery coupled with desertion, without reasonable excuse, for two years or upwards; and every such petition shall state as distinctly as the nature of the case permits the facts on which the claim to have such marriage dissolved is founded: provided that for the purposes of this act incestuous adultery shall be taken to mean adultery committed by a husband with a woman with whom if his wife were dead he could not lawfully contract marriage by reason of her being within the prohibited decrees of consanguinity or affinity; and bigamy shall be taken to mean

On adultery
of wife or
incest, &c., of
husband,
petition for
dissolution of
marriage may
be presented.

As to "in-
cestuous
adultery."

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c. 85.

marriage of any person, being married, to any other person during the life of the former husband or wife, whether the second marriage shall have taken place within the dominions of her Majesty or elsewhere.

Adulterer
to be a co-
respondent.

XXVIII. Upon any such petition presented by a husband the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless on special grounds, to be allowed by the court, he shall be excused from so doing; and on every petition presented by a wife for dissolution of marriage the court, if it see fit, may direct that the person with whom the husband is alleged to have committed adultery be made a respondent; and the parties or either of them may insist on having the contested matters of fact tried by a jury as hereinafter mentioned.

Cause may be
tried by a
jury.

Court to be
satisfied of
absence of
collusion.

XXIX. Upon any such petition for the dissolution of a marriage, it shall be the duty of the court to satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or no the petitioner has been in any manner accessory to or conniving at the adultery, or has condoned the same, and shall also inquire into any counter-charge which may be made against the petitioner.

Dismissal of
petition.

XXX. In case the court, on the evidence in relation to any such petition, shall not be satisfied that the alleged adultery has been committed, or shall find that the petitioner has during the marriage been accessory to or conniving at the adultery of the other party to the marriage, or has condoned the adultery complained of, or that the petition is presented or prosecuted in collusion with either of the respondents, then and in any of the said cases the court shall dismiss the said petition.

Power to court
to pronounce
decree for
dissolving
marriage.

XXXI. In case the court shall be satisfied on the evidence that the case of the petitioner has been proved, and shall not find that the petitioner has been in any manner accessory to or conniving at the adultery of the other party to the

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marriage, or has condoned the adultery complained of, or that the petition is presented or prosecuted in collusion with either of the respondents, then the court shall pronounce a decree declaring such marriage to be dissolved: provided always, that the court shall not be bound to pronounce such decree if it shall find that the petitioner has during the marriage been guilty of adultery, or if the petitioner shall, in the opinion of the court, have been guilty of unreasonable delay in presenting or prosecuting such petition, or of cruelty towards the other party to the marriage, or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse, or of such wilful neglect or misconduct as has conduced to the adultery. 20 & 21 Vict.
c. 85.

XXXII. The court may, if it shall think fit, on any such decree, order that the husband shall to the satisfaction of the court secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it shall deem reasonable, and for that purpose may refer it to any one of the conveyancing counsel of the Court of Chancery to settle and approve of a proper deed or instrument to be executed by all necessary parties; and the said court may in such case, if it shall see fit, suspend the pronouncing of its decree until such deed shall have been duly executed; and upon any petition for dissolution of marriage the court shall have the same power to make interim orders for payment of money by way of alimony or otherwise, to the wife, as it would have in a suit instituted for judicial separation. Alimony.

XXXIII. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition limited to such object only, claim damages from any person on the ground of his having committed adultery Husband
may claim
damages from
adulterers.

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with the wife of such petitioner, and such petition shall be served on the alleged adulterer and the wife, unless the court shall dispense with such service, or direct some other service to be substituted; and the claim made by every such petition shall be heard and tried on the same principles, in the same manner, and subject to the same or the like rules and regulations as actions for criminal conversation are now tried and decided in courts of common law; and all the enactments herein contained with reference to the hearing and decision of petitions to the court shall, so far as may be necessary, be deemed applicable to the hearing and decision of petitions presented under this enactment; and the damages to be recovered on any such petition shall in all cases be ascertained by the verdict of a jury, although the respondents or either of them may not appear; and after the verdict has been given the court shall have power to direct in what manner such damages shall be paid or applied, and to direct that the whole or any part thereof shall be settled for the benefit of the children (if any) of the marriage, or as a provision for the maintenance of the wife.

Power to court
to order adul-
terer to pay
costs.

XXXIV. Whenever in any petition presented by a husband the alleged adulterer shall have been made a co-respondent, and the adultery shall have been established, it shall be lawful for the court to order the adulterer to pay the whole or any part of the costs of the proceedings.

Power to
court to make
orders as to
custody of
children.

XXXV. In any suit or other proceeding for obtaining a judicial separation or a decree of nullity of marriage, and on any petition for dissolving a marriage, the court may from time to time, before making its final decree, make such interim orders, and may make such provision in the final decree, as it may deem just and proper with respect to the custody, maintenance, and education of the children the marriage of whose parents is the subject of such suit or other proceeding, and may, if it shall think fit, direct proper

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proceedings to be taken for placing such children under the protection of the Court of Chancery. 20 & 21 Vict.
c. 85.

XXXVI. In questions of fact arising in proceedings under this act it shall be lawful for, but, except as herein-before provided, not obligatory upon, the court to direct the truth thereof to be determined before itself, or before any one or more of the judges of the said court, by the verdict of a special or common jury. Questions of fact may be tried before the court.

XXXVII. The court, or any judge thereof, may make all such rules and orders upon the sheriff or any other person for procuring the attendance of a special or common jury for the trial of such question as may now be made by any of the superior courts of common law at Westminster, and may also make any other orders which to such court or judge may seem requisite; and every such jury shall consist of persons possessing the like qualifications, and shall be struck, summoned, balloted for, and called in like manner, as if such jury were a jury for the trial of any cause in any of the said superior courts; and every juryman so summoned shall be entitled to the same rights, and subject to the same duties and liabilities, as if he had been duly summoned for the trial of any such cause in any of the said superior courts; and every party to any such proceeding shall be entitled to the same rights as to challenge and otherwise as if he were a party to any such cause. Where a question is ordered to be tried a jury may be summoned as in the common law courts.

Rights to challenge.

XXXVIII. When any such question shall be so ordered to be tried such question shall be reduced into writing in such form as the court shall direct, and at the trial the jury shall be sworn to try the said question, and a true verdict to give thereon according to the evidence; and upon every such trial the court or judge shall have the same powers, jurisdiction, and authority as any judge of any of the said superior courts sitting at nisi prius. Such question to be reduced into writing, and a jury to be sworn to try it.

Judge to have same powers as at nisi prius.

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Bill of excep-
tions, special
verdict, and
special case.

XXXIX. Upon the trial of any such question or of any issue under this act a bill of exceptions may be tendered, and a general or special verdict or verdicts, subject to a special case, may be returned, in like manner as in any cause tried in any of the said superior courts; and every such bill of exceptions, special verdict, and special case respectively shall be stated, settled, and sealed in like manner as in any cause tried in any of the said superior courts, and where the trial shall not have been had in the Court for Divorce and Matrimonial Causes shall be returned into such court without any writ of error or other writ; and the matter of law in every such bill of exceptions, special verdict, and special case shall be heard and determined by the full courts, subject to such right of appeal as is hereinafter given in other cases.

Court may
direct issues
to try any
fact.

XL. It shall be lawful for the court to direct one or more issue or issues to be tried in any court of common law, and either before a judge of assize in any county or at the sittings for the trial of causes in London or Middlesex, and either by a special or common jury, in like manner as is now done by the Court of Chancery.

Affidavit in
support of a
petition.

XLI. Every person seeking a decree of nullity of marriage, or a decree of judicial separation, or a dissolution of marriage, or decree in a suit of jactitation of marriage, shall, together with the petition or other application for the same, file an affidavit verifying the same so far as he or she is able to do so, and stating that there is not any collusion or connivance between the deponent and the other party to the marriage.

Service of
petition.

XLII. Every such petition shall be served on the party to be affected thereby, either within or without her Majesty's dominions, in such manner as the court shall by any general speddraloic oer from timeto time direct, and for that purpose

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the court shall have all the powers conferred by any statute on the Court of Chancery: Provided always, that the said court may dispense with such service altogether in case it shall seem necessary or expedient so to do.

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c. 85.

XLIII. The court may, if it shall think fit, order the attendance of the petitioner, and may examine him or her, or permit him or her to be examined or cross-examined on oath on the hearing of any petition, but no such petitioner shall be bound to answer any question tending to show that he or she has been guilty of adultery.

Examination
of petitioner.

XLIV. The court may from time to time adjourn the hearing of any such petition, and may require further evidence thereon, if it shall see fit so to do.

Adjournment.

XLV. In any case in which the court shall pronounce a sentence of divorce or judicial separation for adultery of the wife, if it shall be made appear to the court that the wife is entitled to any property either in possession or reversion, it shall be lawful for the court if it shall think proper, to order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the innocent party, and of the children of the marriage, or either or any of them.

Court may
order settle-
ment of
property for
benefit of
innocent party
and children
of marriage.

XLVI. Subject to such rules and regulations as may be established as herein provided, the witnesses in all proceedings before the court where their attendance can be had shall be sworn and examined orally in open court: Provided that parties, except as hereinbefore provided, shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party or by direction of the court, be subject to be cross-examined by or on behalf of the opposite party orally in open court, and after such cross-examination may be re-examined orally in open court as aforesaid by or on behalf of the party by whom such affidavit was filed.

Mode of
taking evi-
dence.

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Court may
issue commis-
sions or give
orders for ex-
amination of
witnesses
abroad or
unable to
attend.

XLVII. Provided, that where a witness is out of the jurisdiction of the court, or where, by reason of his illness or from other circumstances, the court shall not think fit to enforce the attendance of the witness in open court, it shall be lawful for the court to order a commission to issue for the examination of such witness on oath, upon interrogatories or otherwise, or if the witness be within the jurisdiction of the court to order the examination of such witness on oath, upon interrogatories or otherwise, before any officer of the said court, or other person to be named in such order for the purpose: and all the powers given to the courts of law at Westminster by the acts of the thirteenth year of King George the Third, chapter sixty-three, and of the first year of King William the Fourth, chapter twenty-two, for enabling the courts of law at Westminster to issue commissions and give orders for the examination of witnesses in actions depending in such courts, and to enforce such examination, and all the provisions of the said acts, and of any other acts for enforcing or otherwise applicable to such examination and the witnesses examined, shall extend and be applicable to the court and to the examination of witnesses under the commissions and orders of the said court, and to the witnesses examined, as if such court were one of the courts of law at Westminster, and the matter before it were an action pending in such court.

Rules of
evidence in
common law
courts to be
observed.

XLVIII. The rules of evidence observed in the superior courts of common law at Westminster shall be applicable to and observed in the trial of all questions of fact in the court.

Attendance of
witnesses on
the court.

XLIX. The court may, under its seal, issue writs of subpoena or subpoena duces tecum, commanding the attendance of witnesses at such time and place as shall be therein expressed; and such writs may be served in any part of Great Britain or Ireland; and every person served with

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such writ shall be bound to attend, and to be sworn and give evidence in obedience thereto, in the same manner as if it had been a writ of subpoena or subpoena duces tecum issued from any of the said superior courts of common law in a cause pending therein, and served in Great Britain or Ireland, as the case may be: Provided that any petitioner required to be examined, or any person called as a witness or required or desiring to make an affidavit or deposition under or for the purposes of this act, shall be permitted to make his solemn affirmation or declaration instead of being sworn in the circumstances and manner in which a person called as a witness or desiring to make an affidavit or deposition would be permitted so to do under the "Common Law Procedure Act, 1854," in cases within the provisions of that act.

30 & 31 Vict.
c. 85.

L. All persons wilfully deposing or affirming falsely in any proceeding before the court shall be deemed to be guilty of perjury, and shall be liable to all the pains and penalties attached thereto.

Penalties for
false evidence.

LI. The court on the hearing of any suit, proceeding, or petition under this act, and the House of Lords on the hearing of any appeal under this act, may make such order as to costs as to such court or house respectively may seem just: Provided always, that there shall be no appeal on the subject of costs only.

Costs.

LII. All decrees and orders to be made by the court in any suit, proceeding, or petition to be instituted under authority of this act shall be enforced and put in execution in the same or the like manner as the judgments, orders, and decrees of the High Court of Chancery may be now enforced and put in execution.

Enforcement
of orders and
decrees.

LIII. The court shall make such rules and regulations concerning the practice and procedure under this act as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same.

Power to
make rules,
&c., for pro-
cedure, and
to alter them
from time to
time.

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Fees to be
regulated.

LIV. The court shall have full power to fix and regulate from time to time the fees payable upon all proceedings before it, all which fees shall be received, paid, and applied as herein directed: Provided always, that the said court may make such rules and regulations as it may deem necessary and expedient for enabling persons to sue in the said court in *forma pauperis*.

Appeal from
the judge
ordinary to
the full court.

LV. Either party dissatisfied with any decision of the court in any matter which, according to the provisions aforesaid, may be made by the judge ordinary alone, may, within three calendar months after the pronouncing thereof, appeal therefrom to the full court, whose decision shall be final.

Appeal to the
House of
Lords in case
of petition for
dissolution of
a marriage.

LVI. Either party dissatisfied with the decision of a full court on any petition for the dissolution of a marriage may, within three months after the pronouncing thereof, appeal therefrom to the House of Lords if Parliament be then sitting, or if Parliament be not sitting at the end of such three months, then within fourteen days next after its meeting; and on the hearing of any such appeal, the House of Lords may either dismiss the appeal or reverse the decree, or remit the case to the court, to be dealt with in all respects as the House of Lords shall direct.

Liberty to
parties to
marry again.

LVII. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired, and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death: Provided always that no clergyman in holy orders of the United Church of England and Ireland shall be compelled to solemnize the marriage of any person whose former marriage may have been

No clergyman
compelled to
solemnize
certain
marriages.

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dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty, or censure for solemnizing or refusing to solemnize the marriage of any such person.

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c. 85.

LVIII. Provided always, that when any minister of any church or chapel of the United Church of England and Ireland shall refuse to perform such marriage service between any persons who but for such refusal would be entitled to have the same service performed in such church or chapel, such minister shall permit any other minister in holy orders of the said united church, entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel.

If minister of any church, &c., refuses to perform marriage ceremony, any other minister may perform such service.

LIX. After this act shall have come into operation no action shall be maintainable in England for criminal conversation.

No action in England for criminal conversation.

LX. None of the fees payable under this act, except as herein expressly provided, shall be received in money, but every such fee shall be collected and received by a stamp denoting the amount of the fee which would otherwise be payable; and the fees to be so collected by stamps shall be "stamp duties," and be under the management of the commissioners of inland revenue.

All fees, except as herein provided, to be collected by stamps.

LXI. The provisions contained in or referred to by an act of the present session of parliament, "to amend the laws relating to probates and letters of administration in England," and applicable to the collection and payment and accounts of the fees to be received thereunder by means of stamps, and to such stamps, and the vellum, parchment, or paper on or to which the same shall be impressed or affixed, and in relation to documents which ought to have stamps impressed thereon or affixed thereto, and to the punishment of persons for such wrongful acts as therein mentioned in relation to stamps, or fees or sums of money which ought to be collected by means of stamps, shall be applicable to and

Provisions concerning stamps for the Court of Probate to be applicable to the purposes of this act.

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for the purposes of this act, as if such provisions as aforesaid had been contained or referred to in this act with reference to the like matters, and the court under this act had been mentioned, instead of the Court of Probate, or the judge thereof, as the case may be.

Expenses of
the court to
be paid out
of monies to
be provided
by parliament.

LXII. It shall be lawful for the commissioners of her Majesty's treasury, out of such monies as may be provided and appropriated by parliament for the purpose, to cause to be paid all necessary expenses of the court under this act, and other expenses which may be incurred in carrying the provisions of this act into effect, except as herein otherwise provided.

Stamp duty
on admission
of proctors,
and annual
certificates.

LXIII. The same amount of stamp duty as is now payable on the admission of a proctor to any ecclesiastical court shall be payable by every person to be admitted as a proctor in the Court of Divorce and Matrimonial Causes, or in the Court of Probate, who shall not have been previously admitted as a proctor in the other of such courts, or in any ecclesiastical or admiralty court, and have paid the stamp duty in respect thereof; and every person who shall practise as a proctor or as a solicitor or attorney in the said Court of Divorce and Matrimonial Causes, or the said Court of Probate, shall obtain an annual certificate to authorize him so to do, under the Stamp Duty Acts, in the same manner as proctors practising in the ecclesiastical or admiralty courts, and solicitors and attornies practising in her Majesty's courts at Westminster, are now required to do by the said acts or any of them, and shall be subject and liable to the same penalties and disabilities in case of any neglect to obtain such certificates as such proctors, attornies and solicitors are now subject and liable to for any similar neglect, and as if the clause and provisions of the said acts in relation to such certificates had been inserted in this act, and specially enacted in reference to proctors, solicitors, and attornies

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practising in the said Court of Divorce and Matrimonial Causes and Court of Probate, provided that one annual certificate only shall be required for any one person, although he may practise in more than one of the capacities aforesaid, or in several of the courts herinbefore mentioned.

20 & 21 Vict.
c. 85.

LXIV. Every person who at the time of the passing of this act has been duly admitted and is practising as a proctor in any ecclesiastical court in England shall, at the expiration of two years from and after the commencement of this act, be entitled to make a claim for compensation to the commissioners of her Majesty's treasury; and the said commissioners, by examination of evidence on oath (which they are hereby empowered to administer), or otherwise as they shall think fit, shall inquire into and ascertain the loss, if any, of professional gains and profits in respect of suits relating to marriage and divorce sustained by such proctors respectively, upon a comparison in each case of the average clear gains of the three years immediately before the commencement of this act, arising from such last-mentioned business, and the average of the same gains during the two years immediately succeeding the commencement of this act; and the said commissioners shall in each case, having regard to all the circumstances, award a reasonable compensation, by way of annuity, to the persons sustaining such loss, during their lives, but in no case shall such annuity exceed one half of the annual loss so ascertained as aforesaid; and such annuities shall be paid out of monies to be annually provided by Parliament for that purpose, and the persons receiving the same shall be subject to the provisions contained in the nineteenth section of the act of fourth and fifth William the Fourth, chapter twenty-four.

Compensation
to proctors.

LXV. In case the judge of the Court of Probate established by any act passed during the present session shall be appointed judge ordinary of the Court for Divorce

As to salary
of judge of
Court of Pro-
bate, if ap-
pointed judge
of Court of
Divorce, &c.

STATUTES.

20 & 21 Vict.
c. 85.

and Matrimonial Causes, the salary of such judge shall be the sum of five thousand pounds per annum; but such judge, if afterwards appointed judge of the Admiralty Court, shall not be entitled to any increase of salary.

Power to
secretary of
state to order
all letters
patent, re-
cords, &c.,
to be trans-
mitted from
all ecclesias-
tical courts.

LXVI. Any one of her Majesty's principal secretaries of state may order every judge, registrar, or other officer of any Ecclesiastical Court in England or the Isle of Man, or any other person having the public custody of or control over any letters patent, records, deeds, processes, acts, proceedings, books, documents, or other instrument relating to marriages, or to suits for divorce, nullity of marriage, restitution of conjugal rights, or to any other matters or causes matrimonial, except marriage licences, to transmit the same, at such times and in such manner, to such places in London or Westminster, and under such regulations, as the said secretary of state may appoint; and if any judge, registrar, officer, or other person shall wilfully disobey such order, he shall for the first offence forfeit the sum of one hundred pounds, to be recoverable by any registrar of the Court of Probate as a debt under this act in any of the superior courts at Westminster, and for the second and subsequent offences the judge ordinary may commit the person so offending to prison for any period not exceeding three calendar months, provided that the warrant of committal be countersigned by one of Her Majesty's principal secretaries of state, and the said persons so offending shall forfeit all claim to compensation under this act.

Penalty on
disobeying
such order.

Rules, &c. to
be laid before
parliament.

LXVII. All rules and regulations concerning practice or procedure, or fixing or regulating fees, which may be made by the court under this act, shall be laid before both houses of Parliament within one month after the making thereof, if Parliament be then sitting, or if Parliament be not then sitting, within one month after the commencement of the then next session of Parliament.

STATUTES.

LXVIII. The judge ordinary of the Court for Divorce and Matrimonial Causes for the time being shall cause to be prepared in each year ending 31st December a return of all fees and monies levied in such year on account of the fee fund of the Court of Divorce and Matrimonial Causes, and of any other fund under the authority of this act; also a return of the annual salaries of the said judge ordinary, and of all persons holding offices in the said court, with all the incidental expenses of the said court, whether the salaries and incidental expenses aforesaid be defrayed out of fees or out of any other monies; also, a return of all superannuations, pensions, annuities, retiring allowances, and compensations made payable under this act, in each year, stating the gross amount, and the amount in detail, of such charges: provided always, that all such returns as aforesaid shall be presented to both houses of Parliament on or before the 31st March in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within one month of the first meeting of Parliament after the 31st March in each year.

20 & 21 Vict.
c. 85.
Yearly account of fees,
&c., to be laid
before parliament.



21 & 22 VICT., c. 93 (THE LEGITIMACY DECLARATION
ACT, 1858).

*An Act to enable Persons to establish Legitimacy and the
Validity of Marriages, and the Right to be deemed natural-
born Subjects.* [2nd August, 1858.]

WHEREAS it is expedient to enable persons to establish their legitimacy, and the marriage of their parents and others from whom they may be descended, and also to enable persons to establish their right to be deemed natural-born subjects: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Application to
Court for
Divorce and
Matrimonial
Causes for
declaration of
legitimacy or
validity or
invalidity of
marriage.

I. Any natural-born subject of the Queen, or any person whose right to be deemed a natural-born subject depends wholly or in part on his legitimacy or on the validity of a marriage, being domiciled in *England* or *Ireland*, or claiming any real or personal estate situate in *England*, may apply by petition to the Court for Divorce and Matrimonial Causes, praying the Court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother, or of his grandfather and grandmother, was a valid marriage, or for a decree declaring either of the matters aforesaid; and any such subject or person, being so domiciled or claiming as aforesaid, may in like manner apply to such Court for a decree declaring that his marriage was or is a valid marriage,

STATUTES.

and such Court shall have jurisdiction to hear and determine such application and to make such decree declaratory of the legitimacy or illegitimacy of such person, or of the validity or invalidity of such marriage, as to the Court may seem just; and such decree, except as herein-after mentioned, shall be binding to all intents and purposes on her Majesty and on all persons whomsoever.

21 & 22 Vict.
c. 83.

II. Any person, being so domiciled or claiming as aforesaid, may apply by petition to the said Court for a decree declaratory of his right to be deemed a natural-born subject of her Majesty, and the said Court shall have jurisdiction to hear and determine such application, and to make such decree thereon as to the Court may seem just, and where such application as last aforesaid is made by the person making such application as herein mentioned for a decree declaring his legitimacy or the validity of a marriage, both applications may be included in the same petition; and every decree made by the said Court shall, except as herein-after mentioned, be valid and binding to all intents and purposes upon her Majesty and all persons whomsoever.

Application to Court for declaration of right to be deemed a natural-born subject.

III. Every petition under this act shall be accompanied by such affidavit verifying the same, and of the absence of collusion, as the Court may by any general rule direct.

Petition to be accompanied by affidavit.

IV. All the provisions of the act of the last session, chapter eighty-five, so far as the same may be applicable, and the powers and provisions therein contained in relation to the making and laying before Parliament of rules and regulations concerning the practice and procedure under that act, and fixing the fees payable upon proceedings before the Court, shall extend to applications and proceedings in the said Court under this act, as if the same had been authorised by the said act of the last session.

20 & 21 Vict.
c. 85, to apply to proceedings under this act.

V. In all proceedings under this act the Court shall have full power to award and enforce payment of costs to any

Power to award and enforce payment of costs.

STATUTES.

21 & 22 Vict.
c. 92.

person cited, whether such person shall or shall not oppose the declaration applied for, in case the said Court shall deem it reasonable that such costs shall be paid.

Attorney-
General to
have a copy of
petition one
month before
it is filed,
and to be
respondent.

VI. A copy of every petition under this act, and of the affidavit accompanying the same, shall, one month at least previously to the presentation or filing of such petition, be delivered to her Majesty's Attorney-General, who shall be a respondent upon the hearing of such petition and upon every subsequent proceeding relating thereto.

Court may
require persons
to be cited.

VII. Where any application is made under this act to the said Court such person or persons (if any) besides the said Attorney-General as the Court shall think fit shall, subject to the rules made under this act, be cited to see proceedings or otherwise summoned in such manner as the Court shall direct, and may be permitted to become parties to the proceedings and oppose the application.

Saving for
rights of per-
sons not cited.

VIII. The decree of the said Court shall not in any case prejudice any person, unless such person has been cited or made a party to the proceedings or is the heir-at-law or next of kin, or other real or personal representative of or derives title under or through a person so cited or made a party; nor shall such sentence or decree of the Court prejudice any person if subsequently proved to have been obtained by fraud or collusion.

Person
domiciled in
Scotland may
insist, on an
action of
declarator,
that he is a
natural-born
subject.

IX. Any person domiciled in *Scotland*, or claiming any heritable or moveable property situate in *Scotland*, may raise and insist, in an action of declarator before the Court of Session, for the purpose of having it found and declared that he is entitled to be deemed a natural-born subject of her Majesty; and the said Court shall have jurisdiction to hear and determine such action of declarator, in the same manner and to the same effect, and with the same power to award expenses, as they have in declarators of legitimacy and decralators of bastardy.

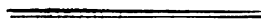
STATUTES.

X. No proceeding to be had under this act shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.

21 & 22 Vict.
c. 93.

XI. The said act of the last session and this act shall be construed together as one act; and this act may be cited for all purposes as "The Legitimacy Declaration Act," 1858.

No proceedings to affect final judgments, &c., already pronounced.
Acts to be read together.
Short title.



21 & 22 VICT., c. 108 (MATRIMONIAL CAUSES ACT, 1858).

*An Act to amend the Act of the Twentieth and Twenty-first
Victoria, Chapter Eighty-five.* [2nd August, 1858.]

20 & 21 Vict.,
c. 85.

WHEREAS in the last session of parliament an act was passed, intituled "An Act to amend the Law relating to Divorce and Matrimonial Causes in England": And whereas it is expedient to amend the same: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

The judge
ordinary of
the Court for
Divorce and
Matrimonial
Causes may sit
in chambers.

I. It shall be lawful for the judge ordinary of the Court for Divorce and Matrimonial Causes for the time being to sit in chambers for the despatch of such part of the business of the said court as can in the opinion of the said judge ordinary, with advantage to the suitors, be heard in chambers; and such sittings shall from time to time be appointed by the said judge ordinary.

The Treasury
to cause
chambers to
be provided.

II. The commissioners of her Majesty's treasury shall from time to time provide chambers in which the said judge ordinary shall sit for the despatch of such business as afore-said, and until such chambers are provided the said judge ordinary shall sit in chambers in any room which he may find convenient for the purpose.

Powers of
judge when
sitting in
chambers.

III. The said judge ordinary when so sitting in chambers shall have and exercise the same power and jurisdiction in respect of the business to be brought before him as if sitting in open court.

STATUTES.

IV. The registrars of the principal registry of the Court of Probate shall be invested with and shall and may exercise with reference to proceedings in the Court for Divorce and Matrimonial Causes the same power and authority which surrogates of the official principal of the Court of Arches could or might before the passing of the twentieth and twenty-first Victoria, chapter seventy-seven, have exercised in chambers with reference to proceedings in that court.

21 & 22 Vict.
c. 108.

The registrars
to do all acts
heretofore
done by
surrogates.

V. In every cause in which a sentence of divorce and separation from bed, board, and mutual cohabitation has been given by a competent ecclesiastical court before the act of the twentieth and twenty-first Victoria, chapter eighty-five, came into operation, the evidence in the cause in which such sentence was pronounced in such ecclesiastical court may, whenever from the death of a witness or from any other cause it may appear to the court reasonable and proper, be received on the hearing of any petition which may be presented to the said Court for Divorce and Matrimonial Causes.

Evidence on
which divorce
obtained prior
to 20 & 21
Vict. c. 85,
may be used
in support
of petition in
the Court for
Divorce and
Matrimonial
Causes.

VI. Every wife deserted by her husband, wheresoever resident in England, may, at any time after such desertion, apply to the said judge ordinary for an order to protect any money or property in England she may have acquired or may acquire by her own lawful industry, and any property she may have become possessed of or may become possessed of after such desertion, against her husband and his creditors, and any person claiming under him; and the judge ordinary shall exercise in respect of every such application all the powers conferred upon the Court for Divorce and Matrimonial Causes under the twentieth and twenty-first Victoria, chapter eighty-five, section twenty-one.

Wives deserted
by their hus-
bands may
apply to the
judge for an
order to pro-
tect property,
&c., acquired
by them.

VII. The provisions contained in this act and in the said act of the twentieth and twenty-first Victoria, chapter eighty-

Provisions
respecting
property of

STATUTES.

21 & 22 Vict.
c. 103.

wife to extend
to property
vested in her
as executrix,
&c.

five, respecting the property of a wife who has obtained a decree for judicial separation or an order for protection shall be deemed to extend to property to which such wife has become or shall become entitled as executrix, administratrix, or trustee since the sentence of separation or the commencement of the desertion (as the case may be); and the death of the testator or intestate shall be deemed to be the time when such wife became entitled as executrix or administratrix.

Order for
protection of
earnings, &c.
of wife to be
deemed valid.

VIII. In every case in which a wife shall under this act or under the said act of the twentieth and twenty-first Victoria, chapter eighty-five, have obtained an order to protect her earnings or property, or a decree for judicial separation, such order or decree shall, until reversed or discharged, so far as necessary for the protection of any person or corporation who shall deal with the wife, be deemed valid and effectual; and no discharge, variation, or reversal of such order or decree shall prejudice or affect any rights or remedies which any person would have had in case the same had not been so reversed, varied, or discharged in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the making such order or decree and of the discharge, variation, or reversal thereof; and property of or to which the wife is possessed or entitled for an estate in remainder or reversion at the date of the desertion or decree (as the case may be), shall be deemed to be included in the protection given by the order or decree.

Order to state
the time at
which the
desertion
commenced.

IX. Every order which shall be obtained by a wife under the said act of the twentieth and twenty-first Victoria, chapter eighty-five, or under this act, for the protection of her earnings or property, shall state the time at which the desertion in consequence whereof the order is made commenced; and the order shall, as regards all persons dealing with such wife in reliance thereon, be conclusive as to the time when such desertion commenced.

STATUTES.

X. All persons and corporations who shall in reliance on any such order or decree as aforesaid, make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same, shall, notwithstanding such order or decree may then have been discharged, reversed, or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the order or decree been discontinued, be protected and indemnified in the same way in all respects as if, at the time of such payment, transfer, or other act, such order or decree were valid and still subsisting without variation in full force and effect, and the separation of the wife from her husband had not ceased or been discontinued, unless at the time of such payment, transfer, or other act such persons or corporations had notice of the discharge, reversal, or variation of such order or decree, or of the cessation or discontinuance of such separation.

21 & 22 Vict.
c. 108.

Indemnity to corporations, &c., making payments under orders afterwards reversed.

XI. In all cases now pending, or hereafter to be commenced, in which, on the petition of a husband for a divorce, the alleged adulterer is made a co-respondent, or in which, on the petition of a wife, the person with whom the husband is alleged to have committed adultery is made a respondent, it shall be lawful for the court, after the close of the evidence on the part of the petitioner, to direct such co-respondent or respondent to be dismissed from the suit, if it shall think there is not sufficient evidence against him or her.

Where alleged adulterer a co-respondent, court may order him to be dismissed from the suit.

XII. Registrars, surrogates, commissioners for taking oaths in the Court of Chancery, and all other persons now or hereafter authorized to administer oaths under the act of the twentieth and twenty-first Victoria, chapter seventy-seven, or under this act, shall have power to administer oaths under the act of the twentieth and twenty-first Victoria, chapter eighty-five.

Persons who administer oaths under 20 & 21 Vict. c. 77, to administer under 20 & 21 Vict. c. 85.

STATUTES.

21 & 22 Vict.
c. 108.

Bills of proce-
tors, attornies,
&c., to be
subject to
taxation.

XIII. The bill of any proctor, attorney, or solicitor, for any fees, charges, or disbursements in respect of any business transacted in the Court for Divorce and Matrimonial Causes, and whether the same was transacted before the full court or before the judge ordinary, shall, as well between proctor or attorney or solicitor and client, as between party and party, be subject to taxation by any one of the registrars belonging to the principal registry of the Court of Probate, and the mode in which any such bill shall be referred for taxation, and by whom the costs of taxation shall be paid, shall be regulated by the rules and orders to be made under the act of the twentieth and twenty-first of Victoria, chapter eighty-five, and the certificate of the registrar of the amount at which such bill is taxed shall be subject to appeal to the judge of the said court.

Power to
enforce decree
as to costs.

XIV. The judge ordinary of the Court of Divorce and Matrimonial Causes, and the registrars of the principal registry of the Court of Probate, shall respectively, in any case where an ecclesiastical court having matrimonial jurisdiction had, previously to the commencement of the act of the twentieth and twenty-first Victoria, chapter eighty-five, made any order or decree in respect of costs, have the same power of taking such costs, and enforcing payment thereof, or of otherwise carrying such order or decree into effect, as if the cause wherein such decree was made had been originally commenced and prosecuted in the said Court for Divorce and Matrimonial Causes: Provided that in taxing any such costs, or any other costs incurred in causes depending in any ecclesiastical court previously to the commencement of the said recited act, all fees, charges, and expenses shall be allowed which might have been legally made, charged and enforced according to the practice of the court of Arches.

Judge to
exercise power

XV. The judge ordinary of the Court for Divorce and Matrimonial Causes shall have and exercise, over proctors,

STATUTES.

solicitors, and attornies practising in the said court, the like authority and control as is now exercised by the judges of any court of equity or of common law over persons practising therein as proctors, solicitors or attornies.

21 & 22 Vict.
c. 108.
and authority
over proctors,
&c.

XVI. It shall be lawful for the judge ordinary of the Court for Divorce and Matrimonial Causes to appoint, by commission under seal of the court, any persons practising as solicitors in the Isle of Man, in the Channel Islands, or any of them, to administer oaths, and to take declarations or affirmations, to be used in the said court; and such persons shall be entitled from time to time to charge and take such fees as any other persons performing the same duties in the Court for Divorce and Matrimonial Causes may charge and take.

Commis-
sioners may be
appointed in
the Isle of
Man, &c.

XVII. Whereas doubts may be entertained whether the right of appeal given by the act of the twentieth and twenty-first Victoria, chapter eighty-five, section fifty-six, extends to sentences on petitions for nullity of marriage: be it enacted and declared, that either party dissatisfied with any such sentence may appeal therefrom in the same manner, within the same time, and subject to the same regulations as affect appeals against sentences on petitions for the dissolution of marriage.

Appeal in
cases of
nullity of
marriage to
lie to the
House of
Lords.

XVIII. Where any trial shall have been had by a jury before the full court or before the judge ordinary, or upon any issue directed by the full court or by the judge ordinary, it shall be lawful for the judge ordinary, subject to any rules to be hereafter made, to grant a rule nisi for a new trial, but no such rule shall be made absolute except by the full court.

Judge ordi-
nary may
grant rule nisi
for new trial,
&c.

XIX. So much of the act of the twentieth and twenty-first Victoria, chapter eighty-five, as authorises application to be made for restitution of conjugal rights, or for judicial

So much of
20 & 21 Vict.
c. 85, as to

21 & 22 VICT., c. 93 (THE LEGITIMACY DECLARATION
ACT, 1858).

*An Act to enable Persons to establish Legitimacy and the
Validity of Marriages, and the Right to be deemed natural-
born Subjects.* [2nd August, 1858.]

WHEREAS it is expedient to enable persons to establish their legitimacy, and the marriage of their parents and others from whom they may be descended, and also to enable persons to establish their right to be deemed natural-born subjects: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Application to
Court for
Divorce and
Matrimonial
Causes for
declaration of
legitimacy or
validity or
invalidity of
marriage.

I. Any natural-born subject of the Queen, or any person whose right to be deemed a natural-born subject depends wholly or in part on his legitimacy or on the validity of a marriage, being domiciled in *England* or *Ireland*, or claiming any real or personal estate situate in *England*, may apply by petition to the Court for Divorce and Matrimonial Causes, praying the Court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother, or of his grandfather and grandmother, was a valid marriage, or for a decree declaring either of the matters aforesaid; and any such subject or person, being so domiciled or claiming as aforesaid, may in like manner apply to such Court for a decree declaring that his marriage was or is a valid marriage,

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and such Court shall have jurisdiction to hear and determine such application and to make such decree declaratory of the legitimacy or illegitimacy of such person, or of the validity or invalidity of such marriage, as to the Court may seem just; and such decree, except as herein-after mentioned, shall be binding to all intents and purposes on her Majesty and on all persons whomsoever.

21 & 22 Vict.
c. 85.

II. Any person, being so domiciled or claiming as aforesaid, may apply by petition to the said Court for a decree declaratory of his right to be deemed a natural-born subject of her Majesty, and the said Court shall have jurisdiction to hear and determine such application, and to make such decree thereon as to the Court may seem just, and where such application as last aforesaid is made by the person making such application as herein mentioned for a decree declaring his legitimacy or the validity of a marriage, both applications may be included in the same petition; and every decree made by the said Court shall, except as herein-after mentioned, be valid and binding to all intents and purposes upon her Majesty and all persons whomsoever.

Application to Court for declaration of right to be deemed a natural-born subject.

III. Every petition under this act shall be accompanied by such affidavit verifying the same, and of the absence of collusion, as the Court may by any general rule direct.

Petition to be accompanied by affidavit.

IV. All the provisions of the act of the last session, chapter eighty-five, so far as the same may be applicable, and the powers and provisions therein contained in relation to the making and laying before Parliament of rules and regulations concerning the practice and procedure under that act, and fixing the fees payable upon proceedings before the Court, shall extend to applications and proceedings in the said Court under this act, as if the same had been authorised by the said act of the last session.

20 & 21 Vict.
c. 85, to apply to proceedings under this act.

V. In all proceedings under this act the Court shall have full power to award and enforce payment of costs to any

Power to award and enforce payment of costs.

STATUTES.

21 & 22 Vict
c. 108.

before any surrogate having authority to administer oaths under the act of the twentieth and twenty-first Victoria, chapter seventy-seven, or before any person who before the passing of the said act was a surrogate authorised to administer oaths in any of the Channel Islands, or before any person authorised to administer oaths under this act, shall be liable to the penalties and consequences of wilful and corrupt perjury.

22 & 23 VICT. C. 61 (MATRIMONIAL CAUSES ACT, 1859).

*An Act to make further Provision concerning the Court for
Divorce and Matrimonial Causes.* [13th August, 1859.]

WHEREAS it is expedient to make further provision concerning "The Court for Divorce and Matrimonial Causes," established by the act of the session holden in the twentieth and twenty-first years of her Majesty, chapter eighty-five: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. In addition to the judges mentioned in section eight of the said act, all the judges for the time being of the Courts of Queen's Bench, Common Pleas, and Exchequer respectively, not already made judges of the Court for Divorce and Matrimonial Causes, shall be judges of such court.

20 & 21 Vict.
c. 85.

Judges of the
Queen's
Bench, &c., to
be judges of
the court for
divorce.

II. The judge ordinary of the said court, and eight or more of the other judges thereof, shall, from time to time, by general orders for this purpose, appoint so many sittings of the full court in every year, and at such times as may appear to them necessary or convenient for disposing of the matters arising in the said court which may not be heard and determined by the judge ordinary alone; and the judges of the said court shall, by a rota or otherwise as they may deem most convenient, make provision for the attendance of the requisite number of judges to make a full court at the times so appointed for the sittings of the full court.

Judge ordi-
nary and eight
of the other
judges to
appoint the
sittings of the
full court.

III. The judge ordinary shall have place and precedence in the said court next after the Lord Chief Baron of her Majesty's Court of Exchequer.

Precedence
of the judge
ordinary.

STATUTES.

22 & 23 Vict.
c. 61.

The court may
make orders
as to custody
of children
after a final
decree of
separation.

20 & 21 Vict.
c. 85.

As to marriage
settlements of
parties after
final decree of
nullity of
marriage.

On a petition
by wife on
account of
adultery, &c.,
both husband
and wife com-
petent, &c., to
give evidence.

Extension of
right of appeal
to House of
Lords.

IV. The court after a final decree of judicial separation, nullity of marriage, or dissolution of marriage, may upon application (by petition) for this purpose make, from time to time all such orders and provision with respect to the custody, maintenance, and education of the children the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the Court of Chancery, as might have been made by such final decree or by interim orders in case the proceedings for obtaining such decree were still pending; and all orders under this enactment may be made by the judge ordinary alone or with one or more of the other judges of the court.

V. The court after a final decree of nullity of marriage or dissolution of marriage may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders with reference to the application of the whole or a portion of the property settled either for the benefit of the children of the marriage or of their respective parents as to the court shall seem fit.

VI. On any petition presented by a wife, praying that her marriage may be dissolved by reason of her husband having been guilty of adultery coupled with cruelty, or of adultery coupled with desertion, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

VII. The right of appeal to the House of Lords given by the fifty-sixth section of the recited act shall extend to all sentences and final judgments on petitions under the Legitimacy Declaration Act, 1858.

23 & 24 VICT. C. 144 (MATRIMONIAL CAUSES ACT, 1860).

*An Act to amend the Procedure and Powers of the Court for
Divorce and Matrimonial Causes.* [28th August, 1860.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. It shall be lawful for the judge ordinary of the Court for Divorce and Matrimonial Causes alone to hear and determine all matters arising in the said court, and to exercise all powers and authority whatever which may now be heard and determined and exercised respectively by the full court or by three or more judges of the said court, the judge ordinary being one, or where the judge ordinary shall deem it expedient, in relation to any matter which he might hear and determine alone by virtue of this act, to have the assistance of one other judge of the said court, it shall be lawful for the judge ordinary to sit and act with such one other Judge accordingly, and, in conjunction with such other judge, to exercise all the jurisdiction, powers, and authority of the said court.

The judge ordinary may exercise powers now vested in the full court.

Judge ordinary may call in the assistance of one of the other judges.

II. Provided always, that the judge ordinary may, where he shall deem it expedient, direct that any such matter as aforesaid shall be heard and determined by the full court ; and in addition to the cases in which an appeal to the full court now lies from the decision of the judge ordinary, either party dissatisfied with the decision of such judge sitting alone in granting or refusing any application for a new trial which by virtue of this act he is empowered

Judge may direct any matter to be heard by the full court.

Appeal to the full court.

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23 & 24 Vict.
c. 144.

to hear and determine may, within fourteen days after the pronouncing thereof, appeal to the full court, whose decision shall be final.

Appeal to the
House of
Lords.

III. Where there is a right of appeal to the House of Lords from the decision of the full court there shall be the like right of appeal to the said house from the decision of the judge ordinary alone, or with any other judge, under this act.

Regulation of
the sittings of
the full court.

IV. The sittings of the full court shall be holden during the seventh and five following days of sitting in each term, and on such other days as the judge ordinary, with the assent of the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of the Exchequer, shall from time to time appoint; and the judges of the Courts of Queen's Bench, Common Pleas, and Exchequer shall, by a rota or otherwise, as they deem most convenient, make provision for the attendance of the requisite number of such judges to make with the judge ordinary a full court during such sittings; and section two of the act of the last session of parliament, chapter sixty-one, shall be repealed.

22 & 23 Vict.
c. 61, s. 2,
repealed.

Court may,
where one
party only
appears, re-
quire counsel
to be ap-
pointed to
argue on the
other side.

V. In every case of a petition for a dissolution of marriage it shall be lawful for the court, if it shall see fit, to direct all necessary papers in the matter to be sent to her Majesty's proctor, who shall, under the directions of the attorney general, instruct counsel to argue before the court any question in relation to such matter, and which the court may deem it necessary or expedient to have fully argued; and her Majesty's proctor shall be entitled to charge and be reimbursed the costs of such proceeding as part of the expense of his office.

20 & 21 Vict.,
c. 85, s. 45,
amended.

VI. And whereas by section forty-five of the act of the session holden in the twentieth and twenty-first years of her Majesty, chapter eighty-five, it was enacted, that "in any

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case in which the court should pronounce a sentence of divorce or judicial separation for adultery of the wife, if it should be made appear to the court that the wife was entitled to any property, either in possession or reversion, it should be lawful for the court, if it should think proper, to order such settlement as it should think reasonable to be made of such property, or any part thereof, for the benefit of the innocent party and of the children of the marriage, or either of them:" Be it further enacted, that any instrument executed pursuant to any order of the court made under the said enactment before or after the passing of this act, at the time of or after the pronouncing of a final decree of divorce or judicial separation, shall be deemed valid and effectual in the law, notwithstanding the existence of the disability of coverture at the time of the execution thereof.

23 & 24 Vict.
c. 144.

VII. Every decree for a divorce shall in the first instance be a decree nisi, not to be made absolute till after the expiration of such time, not less than three months from the pronouncing thereof, as the court shall by general or special order from time to time direct; and during that period *any person shall be at liberty*, in such manner as the court shall by general or special order in that behalf from time to time direct, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not brought before the court; and, on cause being so shown, the court shall deal with the case by making the decree absolute, or by reversing the decree nisi, or by requiring further inquiry, or otherwise as justice may require; and at any time during the progress of the cause or before the decree is made absolute any person may give information to her Majesty's proctor of any matter material to the due decision of the case, who may thereupon take such steps as the attorney general may deem necessary or expedient; and if from any

Decrees.

Collusion.

STATUTES.

23 & 24 Vict.
c. 144.

such information or otherwise the said proctor shall suspect that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce contrary to the justice of the case, he may, under the direction of the attorney general, and by leave of the court, intervene in the suit, alleging such case of *collusion*, and retain counsel and subpoena witnesses to prove it; and it shall be lawful for the court to order the costs of such counsel and witnesses, and otherwise, arising from such intervention, to be paid by the parties or such of them as it shall see fit, including a wife if she have separate property; and in case the said proctor shall not thereby be fully satisfied his reasonable costs, he shall be entitled to charge and be reimbursed the difference as part of the expense of his office.

Continuance
of act.

VIII. This act shall continue in force until the 31st July, 1862, and no longer.

25 & 26 VICT. C. 81.

An Act to make perpetual "An Act to amend the Procedure and Powers of the Court for Divorce and Matrimonial Causes."

[7th August, 1862.]

WHEREAS an act passed in the session of parliament held in the twenty-third and twenty-fourth years of the reign of Her Majesty, chapter one hundred and forty-four, and intituled "An Act to amend the Procedure and Powers of the Court for Divorce and Matrimonial Causes," is about to expire; and it is expedient to make the same perpetual: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same :

23 & 24 Vict.
c. 144.

I. There shall be repealed the eighth section of the said act, whereby it is provided that the same is to continue in force until the thirty-first day of July one thousand eight hundred and sixty-two and no longer, and the said act shall be and is hereby made perpetual.

Recited act
made per-
petual.

27 & 28 VICT. C. 44 (MATRIMONIAL CAUSES ACT, 1864).

An Act to amend the Act relating to Divorce and Matrimonial Causes in England, Twentieth and Twenty-first Victoria,
Chapter Eighty-five. [14th July, 1864.]

WHEREAS it is expedient to amend an act passed in the twentieth and twenty-first years of the reign of her present Majesty, chapter eighty-five: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Amending provisions of 20 & 21 Vict. c. 85, as to orders of protection of property of wife deserted by her husband.

I. Where under the provisions of section twenty-one of the said act a wife deserted by her husband shall have obtained or shall hereafter obtain an order protecting her earnings and property from a police magistrate, or justices in petty sessions, or the Court for Divorce and Matrimonial Causes, as the case may be, the husband and any creditor or other person claiming under him may apply to the court or to the magistrate or justices by whom such order was made for the discharge thereof as by the said act authorized; and in case the said order shall have been made by a police magistrate and the said magistrate shall have died or been removed, or have become incapable of acting, then in every such case the husband or creditor, or such other person as aforesaid, may apply to the magistrate for the time being acting as the successor or in the place of the magistrate who made the order of protection, for the discharge of it, who shall have authority to make an order discharging the same; and an order for discharge of an order for protection may be

STATUTES.

applied for to and be granted by the court, although the order for protection was not made by the court, and an order for protection made at one petty sessions may be discharged by the justices of any later petty sessions, or by the court. 27 & 28 Vict. c. 44.

29 VICT. C. 32 (MATRIMONIAL CAUSES ACT, 1866).

An Act further to amend the Procedure and Powers of the Court for Divorce and Matrimonial Causes. [11th June, 1866.]

WHEREAS by the act passed in the session of parliament holden in the twentieth and twenty-first years of the reign of her present Majesty, intituled, "An Act to amend the Laws relating to Divorce and Matrimonial Causes in England," it is by the thirty-second section enacted, "that the court may, on pronouncing any decree for a dissolution of marriage, order that the husband shall to the satisfaction of the court secure to the wife such gross or annual sum of money as to the court may seem reasonable, and for that purpose may refer it to one of the conveyancing counsel of the Court of Chancery to settle and approve of a proper deed to be executed by all necessary parties." 20 & 21 Vict. c. 85.

And whereas it sometimes happens that a decree for a dissolution of marriage is obtained against a husband who has no property on which the payment of any such gross or annual sum can be secured, but nevertheless he would be able to make a monthly or weekly payment to the wife during their joint lives:

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39 Vict. c. 39.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Power to order monthly or weekly payments to wife from husband on dissolution of marriage.

I. In every such case it shall be lawful for the court to make an order on the husband for payment to the wife during their joint lives of such monthly or weekly sums for her maintenance and support as the court may think reasonable : provided always, that if the husband shall afterwards from any cause become unable to make such payments it shall be lawful for the court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order, wholly or in part, as to the court may seem fit.

In cases of opposition on certain grounds.

II. In any suit instituted for dissolution of marriage, if the respondent shall oppose the relief sought on the ground in case of such a suit instituted by a husband of his adultery, cruelty or desertion, or in case of such a suit instituted by a wife on the ground of her adultery or cruelty, the court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had filed a petition seeking such relief.

Decree nisi not absolute till after six months.

III. No decree nisi for a divorce shall be made absolute until after the expiration of six calendar months from the pronouncing thereof, unless the court shall under the power now vested in it fix a shorter time.

31 & 32 VICT., c. 77 (MATRIMONIAL CAUSES ACT, 1868).

An Act to amend the Law relating to Appeals from the Court of Divorce and Matrimonial Causes in England.

[31st July, 1868.]

WHEREAS it is expedient to amend the law relating to appeals from the Court for Divorce and Matrimonial Causes with a view to prevent unnecessary delay in the final determination of suits for dissolution or nullity of marriage :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. Throughout this act the expression "the court" shall mean the Court for Divorce and Matrimonial Causes. Interpretation

II. Section fifty-six of the act of twentieth and twenty-first Victoria, chapter eighty-five, section seventeen of the act of twenty-first and twenty-second Victoria, chapter one hundred and eight, and section three of the act of twenty-third and twenty-fourth Victoria, chapter one hundred and forty-four, are hereby repealed. Sect. 56 of 20 & 21 Vict. c. 85 ; sect. 17 of 21 & 22 Vict. c. 108 ; and sect. 3 of 23 & 24 Vict. c. 144, repealed.

III. Either party dissatisfied with the final decision of the court on any petition for dissolution or nullity of marriage may, within one calendar month after the pronouncing thereof, appeal therefrom to the House of Lords, and on the hearing of any such appeal the House of Lords may either dismiss the appeal or reverse the decree, or remit the case to be dealt with in all respects as the House of Appeals to House of Lords to be within one month.

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31 & 32 Vict.
c. 77.

No appeal in
undefended
suits for
dissolution
unless by leave
of court.

Lords shall direct: Provided always, that in suits for dissolution of marriage no respondent or co-respondent, not appearing and defending the suit on the occasion of the decree nisi being made, shall have any right of appeal to the House of Lords against the decree when made absolute, unless the court, upon application made at the time of the pronouncing of the decree absolute, shall see fit to permit an appeal.

Liberty to
parties to
marry again.

IV. Section fifty-seven of the said act of twenty-first Victoria, chapter eighty-five, shall be read and construed with reference to the time for appealing as varied by this act; and in cases where under this act there shall be no right of appeal, the parties respectively shall be at liberty to marry again at any time after the pronouncing of the decree absolute.

Short title.

V. This act may be cited as "The Divorce Amendment Act, 1868."

Qualified
retrospective
operation.

VI. This act shall extend to all suits pending at the time when the same shall come into operation, notwithstanding that a decree may have been pronounced therein; provided nevertheless, that this act shall not affect any pending appeal nor shall the same prejudice any subsisting right of appeal against a decree already pronounced, provided such appeal be lodged within one calendar month after this act shall come into operation.

32 & 33 VICT., c. 68 (EVIDENCE FURTHER AMENDMENT
ACT, 1869).

An Act for the further Amendment of the Law of Evidence.

[9th August, 1869.]

WHEREAS the discovery of truth in courts of justice has been signally promoted by the removal of restrictions on the admissibility of witnesses, and it is expedient to amend the law of evidence with the object of still further promoting such discovery :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. The fourth section of chapter ninety-nine of the statutes passed in the fourteenth and fifteenth years of her present Majesty, and so much of the second section of the "Evidence Amendment Act, 1853," as is contained in the words "or in any proceeding instituted in consequence of adultery," are hereby repealed.

Sect. 4 of
14 & 15 Vict.
c. 99, and part
of sect. 2 of
16 & 17 Vict.
c. 83, repealed.

II. The parties to any action for breach of promise of marriage shall be competent to give evidence in such action ; provided always, that no plaintiff in any action for breach of promise of marriage shall recover a verdict unless his or her testimony shall be corroborated by some other material evidence in support of such promise.

Parties in
actions for
breach of
promise of
marriage.

III. The parties to any proceeding instituted in consequence of adultery, and the husbands and wives of such parties, shall be competent to give evidence in such

Parties and
their husbands
and wives to
be witnesses
in suits for
adultery.

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33 & 33 Vict.
c. 68.

proceeding: provided that no witness in any proceeding, whether a party to the suit or not, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery, unless such witness shall have already given evidence in the same proceeding in disproof of his or her alleged adultery.

Persons
objecting to
take oath may
be allowed to
make declara-
tion, and be
triable for
perjury.

IV. If any person called to give evidence in any court of justice, whether in a civil or criminal proceeding, shall object to take an oath, or shall be objected to as incompetent to take an oath, such person shall, if the presiding judge is satisfied that the taking of an oath would have no binding effect on his conscience, make the following promise and declaration:

"I solemnly promise and declare that the evidence given by me to the court shall be the truth, the whole truth, and nothing but the truth."

And any person who, having made such promise and declaration, shall wilfully and corruptly give false evidence, shall be liable to be indicted, tried, and convicted for perjury as if he had taken an oath.

Short title.

V. This act may be cited for all purposes as the "Evidence Further Amendment Act, 1869."

Extent of act.

VI. This act shall not extend to Scotland.

36 VICT. C. 31 (MATRIMONIAL CAUSES ACTS AMENDMENT
ACT, 1873).

*An Act to extend to Suits for Nullity of Marriage the Law
with respect to the Intervention of Her Majesty's Proctor and
others in Suits in England for dissolving Marriages.*

[16th June, 1873.]

WHEREAS under section seven of the act of the session of the twenty-third and twenty-fourth years of the reign of her present Majesty, chapter one hundred and forty-four, intituled "An Act to amend the Procedure and Powers of the Court for Divorce and Matrimonial Causes," and under section three of the act of the session of the twenty-ninth and thirtieth years of the reign of her present Majesty, chapter thirty-two, intituled "An Act further to amend the Procedure and Powers of the Court for Divorce and Matrimonial Causes," a decree for divorce is required in the first instance to be a decree nisi, and not to be made absolute until after the expiration of six months, unless the court otherwise direct, and provision is made for any person showing cause why the decree should not be made absolute by reason of the same having been obtained by collusion, or of material facts not having been brought before the court, and power is given to any person to give information to her Majesty's proctor, who is thereupon authorised to take such steps as the attorney general may deem necessary or expedient, and such proctor, if he suspects that any parties to the suit are acting in collusion for the purpose of obtaining a divorce contrary to the justice of the case, is authorised under the direction of the attorney general and by leave of the court to intervene

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36 Vict.
c. 31.

in the suit, and otherwise proceed as therein mentioned, and provision is made for the payment of his costs in so acting :

And whereas it is expedient to extend such provisions to a suit for nullity of marriage :

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

Extension of
sect. 7 of
23 & 24 Vict.
c. 144, and
sect. 3 of
29 & 30 Vict.
c. 32, to suits
for nullity of
marriage.

I. The above-mentioned sections of the said acts shall extend to decrees and suits for nullity of marriage in like manner as they apply to decrees and suits for divorce, and shall be construed as if they were herein enacted, with the substitution of the words "a decree for nullity of marriage" for the words "decree for a divorce" or "divorce," as the case may require.

Short title.

II. This act, together with the acts specified in the schedule to this act, may be cited as "The Matrimonial Causes Acts, 1857 to 1873," and each act may be cited as the Matrimonial Causes Act of the year in which it was passed.

SCHEDULE.

Matrimonial Causes Acts.

SESSION AND CHAPTER.	TITLE.
20 & 21 Vict. c. 85...	An Act to amend the law relating to Divorce and Matrimonial Causes in England.
21 & 22 Vict. c. 108..	An Act to amend the Act of the twentieth and twenty-first Victoria, chapter eighty-five.
22 & 23 Vict. c. 61...	An Act to make further provision concerning the Court for Divorce and Matrimonial Causes.
23 & 24 Vict. c. 144..	An Act to amend the procedure and powers of the Court for Divorce and Matrimonial Causes.
29 & 30 Vict. c. 32...	An Act further to amend the procedure and powers of the Court for Divorce and Matrimonial Causes.
31 & 32 Vict. c. 77...	An Act to amend the law relating to appeals from the Court for Divorce and Matrimonial Causes in England.

41 VICT. C. 19 (MATRIMONIAL CAUSES ACT, 1878).

An Act to amend the Matrimonial Causes Acts.

[27th May, 1878.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. This act may be cited as "The Matrimonial Causes Act, 1878." Short title.

II. Where the Queen's proctor or any other person shall intervene or show cause against a decree nisi in any suit or proceeding for divorce or for nullity of marriage, the court may make such order as to the costs of the Queen's proctor, or of any other person who shall intervene or show cause as aforesaid, or of all and every party or parties thereto, occasioned by such intervention or showing cause as aforesaid, as may seem just; and the Queen's proctor, any other person as aforesaid, and such party or parties shall be entitled to recover such costs in like manner as in other cases: provided that the treasury may, if it shall think fit, order any costs which the Queen's proctor shall, by any order of the court made under this section, pay to the said party or parties, to be deemed to be part of the expenses of his office. Costs of intervention.

III. The court may exercise the powers vested in it by the provisions of section five of the act of the twenty-second and twenty-third years of Victoria, chapter sixty-one, notwithstanding that there are no children of the marriage. Extension of power given by 22 & 23 Vict. c. 61, sec. 5.

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41 Vict. c. 19.

If husband
convicted of
aggravated
assault, court
may order
that wife be
not bound to
cohabit, &c.

IV. If a husband shall be convicted summarily or otherwise of an aggravated assault within the meaning of the statute twenty-fourth and twenty-fifth Victoria, chapter one hundred, section forty-three, upon his wife, the court or magistrate before whom he shall be so convicted may, if satisfied that the future safety of the wife is in peril, order that the wife shall be no longer bound to cohabit with her husband; and such order shall have the force and effect in all respects of a decree of judicial separation on the ground of cruelty; and such order may further provide,

- I. That the husband shall pay to his wife such weekly sum as the court or magistrate may consider to be in accordance with his means, and with any means which the wife may have for her support, and the payment of any sum of money so ordered shall be enforceable and enforced against the husband in the same manner as the payment of money is enforced under an order of affiliation; and the court or magistrate by whom any such order for payment of money shall be made shall have power from time to time to vary the same on the application of either the husband or the wife, upon proof that the means of the husband or wife have been altered in amount since the original order or any subsequent order varying it shall have been made;
- II. That the legal custody of any children of the marriage under the age of ten years shall, in the discretion of the court or magistrate, be given to the wife.

Provided always, that no order for payment of money by the husband, or for the custody of children by the wife, shall be made in favour of a wife who shall be proved to have committed adultery, unless such adultery has been condoned;

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and that any order for payment of money or for the custody 41 Vict. c. 19.
of children may be discharged by the court or magistrate by
whom such order was made upon proof that the wife has
since the making thereof been guilty of adultery; and
provided also, that all orders made under this section shall
be subject to appeal to the Probate, Divorce, and Admiralty
Division of the High Court of Justice.

47 & 48 VICT., c. 20 (GREEK MARRIAGES ACT).

An Act to remove Doubts as to the Validity of certain Marriages of Members of the Greek Church in England. [3 July, 1884.]

WHEREAS it is alleged that certain marriages have been from time to time, between the years 1836 and 1857, solemnized between members of the Greek Church in the Greek Chapel then situate at 9, Finsbury Circus, in the City of London, and afterwards, within the said period, at London Wall, in the said City.

And that similar marriages have been from time to time, within the said period, solemnized at the residences of members of the said Church.

And that such marriages were respectively solemnized in conformity with the rights and ceremonies of the Greek Church by a priest of that Church, and entries of the said respective marriages so solemnized have from time to time been made in the register book kept for that purpose at the said chapels respectively, or otherwise, in the custody of the said priest.

And that the said marriages were respectively solemnized in the belief that the aforesaid conformity to and compliance with the rites and ceremonies of the Greek Church constituted a compliance with the law of England.

And whereas objections may be made to the validity of such marriages, by reason of the same not having been solemnized in any consecrated or licensed church or chapel of the Church of England, or in any registered building, or at the office of the registrar, and not having been solemnized after due publication of banns, or under licence or special

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licence, or in the presence of a Clerk in Holy Orders of the Church of England, or a registrar of marriages, and it is expedient to confirm, in the manner and subject to the proviso hereinafter mentioned, any marriage which may have been contracted in the manner and under the circumstances aforesaid, notwithstanding all or any of the aforesaid defects. 47 & 48 Vict.
c. 20.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. Any party to any such marriage as aforesaid, and any child or grandchild of any such party, and any person interested in the validity of any such marriage, may respectively apply to the Probate and Matrimonial Division of Her Majesty's High Court of Justice by petition, praying the court for a decree declaring that such marriage was a valid marriage ; and the said court shall have jurisdiction to hear and determine such application, and shall, if an entry of such marriage shall appear to have been duly made upon the register book aforesaid, and if the court be satisfied that such marriage was solemnized in the manner and in the belief aforesaid, and was in all other respects good and lawful, declare the same to have been a valid marriage, notwithstanding all or any of the defects aforesaid : Provided always, that this act shall not extend to render valid any marriage which before the passing thereof has been declared invalid by any court of competent jurisdiction in any proceeding touching such marriage, or any right dependent on the validity or invalidity thereof, or any marriage where either of the parties thereto has afterwards during the life of the other intermarried with any other person.

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47 & 48 Vict.
c. 22.

* Any petition under this act shall be accompanied by such affidavit verifying the same as the said court may from time to time direct.

† In respect of all matters and things by this act not specially provided for, the provisions of sections five, six, and seven of the act 21 & 22 Vict., c. 93, shall *mutatis mutandis* apply, and all proceedings under this act shall be had and taken in conformity therewith, and with such of the rules for the time being in force with reference to applications to the court under the said act as may be applicable, or with such rules as the judges of the said court for the time being authorised to make rules may from time to time prescribe.

II. Provided always, and be it further enacted, that the status of any person or any right of any person to any real or personal property or any estate or interest of any such person in any real or personal property which may be dependent on the invalidity of any such marriage shall not be altered, taken away, or injuriously affected by any decree made under the provisions of this act; but shall be and remain as valid and effectual in law to all intents and purposes as if this act had not been passed.

III. The priest of the Greek Church, or other the person in whose custody the register books relating to such marriages as aforesaid shall be kept, on the passing of this

* *As directed by the president.*—Such affidavit shall be in the form and to the effect required by Rule 2 of the Divorce Rules and Orders.

Rule 2. Every petition shall be accompanied by an affidavit made by the petitioner, verifying the facts of which he or she has personal cognizance, and deposing as to belief in the truth of the other facts alleged in the petition, and such affidavit shall be filed with the petition.

† 21 & 22 Vict., c. 93, sec. 5—Power to award and enforce costs.

" " 6—Attorney-General to have a copy of petition one month before it is filed and to be a Respondent.

" " 7—Court may require persons to be cited.

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act, shall forthwith transmit to the registrar of the Probate and Matrimonial Registry a copy signed by him of the register aforesaid, and the said registrar shall receive and preserve the same in the said registry. 47 & 48 Vict.
c. 26.

IV. This act may be cited as the Greek Marriages Act, 1884.

47 & 48 VICT. C. 68 (RESTITUTION OF CONJUGAL RIGHTS).

[14th August, 1884.]

WHEREAS it is expedient to amend the law as to the restitution of conjugal rights in England :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows :

I. This act may be cited as the Matrimonial Causes Act, 1884.

II. From and after the passing of this act a decree for restitution of conjugal rights shall not be enforced by attachment, but where the application is by the wife the court may, at the time of making such decree, or at any time afterwards, order that in the event of such decree not being complied with within any time in that behalf limited by the court, the respondent shall make to the petitioner such periodical payments as may be just, and such order may be enforced in the same manner as an order for alimony in a suit for judicial separation. The court may, if it shall think fit, order that the husband shall, to the satisfaction of the court, secure to the wife such periodical payment, and

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47 & 48 Vict.
c. 68. for that purpose may refer it to any one of the conveying counsel of the court to settle and approve of a proper deed or instrument to be executed by all necessary parties.

III. Where the application for restitution of conjugal rights is by the husband, if it shall be made to appear to the court that the wife is entitled to any property, either in possession or reversion, or is in receipt of any profits of trade or earnings, the court may, if it shall think fit, order a settlement to be made to the satisfaction of the court of such property, or any part thereof, for the benefit of the petitioner and of the children of the marriage, or either or any of them, or may order such part as the court may think reasonable of such profits of trade or earnings to be periodically paid by the respondent to the petitioner for his own benefit, or to the petitioner or any other person for the benefit of the children of the marriage, or either or any of them.

IV. The court may from time to time vary or modify any order for the periodical payment of money, either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the same as to the whole or any part of the money so ordered to be paid, and again revive the same order wholly or in part, as the court may think just.

V. If the respondent shall fail to comply with a decree of the court for restitution of conjugal rights such respondent shall *thereupon be deemed to have been guilty of desertion without reasonable cause, and a suit for judicial separation may be forthwith instituted, and a sentence of judicial separation may be pronounced although the period of two years may not have elapsed* since the failure to comply with the decree for restitution of conjugal rights; and when any husband who has been guilty of desertion by failure on his part to comply with a decree for *restitution of conjugal rights has also been*

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guilty of adultery, the wife may forthwith present a petition for dissolution of her marriage, and the *court may pronounce a decree nisi for the dissolution of the marriage on the grounds of adultery coupled with desertion*. Such decree nisi shall not be made absolute until after the expiration of six calendar months from the pronouncing thereof, unless the court shall fix a shorter time. 47 & 48 Vict.
c. 68.

VI. The court may, at any time before final decree on any application for restitution of conjugal rights, or after final decree if the respondent shall fail to comply therewith, upon application for that purpose, make from time to time all such orders and provisions with respect to the custody, maintenance, and education of the children of the petitioner and respondent as might have been made by interim orders during the pendency of a trial for judicial separation between the same parties.

VII. This act shall not extend to Scotland or Ireland.

